

**CALIFORNIA ASSOCIATION OF
COUNTY VETERANS SERVICE OFFICERS
and
CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS
Veterans Services Division**

**County Veterans Service Office Personnel
Training Program for
U.S. Department of Veterans Affairs Accreditation**

Authority:

Under 38 CFR § 14.629(a) as amended, authority for supervising and controlling this training program is given to the State Department of Veterans Affairs. Accordingly, the following directives apply:

1. Before receiving accreditation through the California Department of Veterans Affairs, all new County Veterans Service Officers and Veterans Service Representatives must receive and complete this training course.
2. CVSO personnel who are already accredited must take regular ongoing refresher training to keep informed and abreast of continuing changes to the law, regulations, and VA policies.

Course Objectives:

1. To understand the bases for providing various benefits to veterans, their dependents and survivors.
 - a. The history and organization of the U.S. Department of Veterans Affairs (VA).
 - b. How VA functions.
2. To assemble and become familiar with basic resource materials.
 - a. Title 38, U.S. Code (USC).
 - b. 38 Code of Federal Regulations (CFR).
 - c. Operating manuals for various VA operating elements.
 - d. Various VA pamphlets, brochures, and booklets describing benefits and programs.
3. To learn how VA adjudicates claims and reaches its decisions.
 - a. Learn all available benefits under the various programs.
 - b. Learn how to properly complete both initial and supplemental claims.
 - c. Learn how to develop supporting evidence to enable VA to adjudicate the claim as quickly as possible.
 - d. Learn the appellate process and procedures.

TO THE SUPERVISOR OR INSTRUCTOR:

This training manual is intended as a basic tool both for new trainees and for journeyman claims representatives. It contains twenty modules covering all programs listed in Title 38, U.S. Code, regarding benefits for veterans, their dependents, and their survivors. It gives pertinent reading references for each topic contained. As experience dictates and as veterans' laws or VA policies change, it will be updated and possibly enlarged.

The format and content of the current manual has been revised from earlier versions. Each module gives a listing of pertinent reading references, followed by a capsule summary of the particular benefit or program being described, followed in turn by a brief quiz on various aspects of the topic of the particular module. Because it is intended as only a capsule summary, no attempt is made to give comprehensive detail on any particular aspect—rather, the trainee should be encouraged to read the references given and then discuss with the instructor in more detail the various points.

The answers for questions on the various quizzes may or may not be found in the summary; often, it will be necessary to refer to the basic readings, especially the Code of Federal Regulations (CFR) both for the answer itself and for the authority for the answer. A separate listing is provided with the intended answers and, to the extent possible, the specific reference(s).

It is important that the supervisor and/or instructor be available to the greatest extent possible to discuss, clarify and enlarge upon the various points in each module, as well as to explain any points not clearly understood by the trainee.

TO THE TRAINEE:

The best way to learn claims work is by a combination of theoretical and practical training. To the greatest extent possible, you will actually work cases under the guidance of a supervisor/instructor, using this manual to help understand what needs to be done and why. Your supervisor will assign various modules for you to study, review, and discuss in connection with the casework.

It is extremely important that you study the laws and regulations carefully, as well as the various operating manuals for the different VA elements. In particular, you must be familiar with the Adjudication Manual M21-1, since this will be a controlling reference for the majority of VA claims you will deal with. The various VA pamphlets and booklets listed are also extremely important, since they give detailed information in clear and concise language about the eligibility and entitlement requirements for the various benefit programs. Another highly recommended source of information is the *Veterans' Benefits Reference Guide*®, prepared and distributed by the National Academy for Veterans Service Officers, Inc. This not only presents information regarding veterans benefits programs, but also has chapters dealing with Social Security issues, and helping to deal with issues of homelessness, the elderly, etc., as they apply to veterans, dependents, and survivors.

This manual is your property, and is intended to be a guide and working notebook throughout your career. You may add references and notes, and make changes as required by changes in the laws and/or VA policies. It should remain a useful tool to help prepare for and pass any further examinations related to claims work as may be required. This manual alone will not make you an expert in VA claims matters. However, it should give you a good start in becoming familiar and comfortable with the VA claims process.

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Revision 7 to CACVSO Training Manual

January 21, 2004

This is the seventh set of revisions to the CACVSO manual in accordance with my contractual obligation to revise and update it on an ongoing basis to reflect changes in VA laws, policies, and procedures, and to improve both the content and the emphasis as dictated by experience with using the manual. This time, I have made the following changes:

Introduction and Index: On the Index (page iii) I have corrected the title of Module 15 to reflect the actual current name of the program: Survivors' and Dependents' Education Assistance.

Module 3: a. VA has amended 38 CFR § 20.204(c) to permit a recognized representative to withdraw in writing either a Notice of Disagreement or a Substantive Appeal, notwithstanding that it may have been filed by the appellant (68 FR 13235–36). I have changed the description in Part 2 of the limitations on actions the representative may take on a claimant's behalf to reflect this change.

b. In Part 3 I have changed the description of an informal claim to include examination or treatment at a civilian medical facility under auspices of a TRICARE contract, on the same basis as examination or treatment at a civilian facility under VA contract. This is in accordance with VAOPGCPREC 5-2003, issued September 15, 2003.

c. NOTE—In Part 5 I have made ***no change*** in the description of the provision in 38 CFR § 3.159(b) allowing VA to decide a claim on the evidence of record if a claimant fails to respond within 30 days to VA's request for additional evidence and/or information. The U.S. Court of Appeals for the Federal Circuit had invalidated this provision on the basis that VA exceeded its authority by imposing an earlier time limit than the one year specified by 38 USC 5103(b) for submitting evidence requested by VA. However, Public Law 108-183, the Veterans Benefits Act of 2003, Section 701(b), now explicitly permits VA to make a decision before the expiration of the one-year period, and further, makes the authority retroactive, thus negating the Appeals Court's order. Section 701(c) specifies that if the requested evidence and/or information is then submitted before the end of the one-year period, the claim will be re-adjudicated as though the prior decision had not been made, ***unless*** a timely appeal has already been made to the Board of Veterans' Appeals.

Module 4: a. Effective December 16, 2003, Publ. L. 108-183 removed the requirement that a veteran must have been held as a prisoner of war for at least 30 days to qualify for presumptive consideration of SC for psychosis, for any of the anxiety disorders (including PTSD), for dysthymic disorder (depressive neurosis), for residuals of frostbite (where appropriate), and for post-traumatic arthritis. All other POW-presumptive conditions continue to require at least 30 days' captivity to qualify for eligibility. I have noted this change in the paragraph on page 4-4 describing length of service and/or other requirements for the various presumptions of SC.

b. The U.S. Court of Appeals for the Federal Circuit has held that entitlement to compensation under 38 USC 1151 for qualifying permanent total disability provides eligibility for Special Adapted Housing under 38 USC, Chapter 21, notwithstanding that the disability did not arise as a result of the veteran's service. [*Kilpatrick v. Principi*, citation not available] The recitation of benefits available to veterans under Section 1151 has been amended to include this.

- Module 6:**
- a. Publ. L. 108-183 provides that beginning January 1, 2004 the remarriage of a surviving spouse who is eligible for DIC and who is over age 57 at the time of remarriage will not terminate continued eligibility to DIC. Further, a surviving spouse whose eligibility for DIC was terminated because of remarriage prior to January 1, 2004, and who was over age 57 at the time of remarriage, may reinstate eligibility by making re-application before December 16, 2004 (one year after the effective date of Publ. L. 108-183). I have added an additional paragraph to reflect this change.
 - b. Publ. L. 108-183 removed the restriction limiting payment of accrued benefits to not more than two years retroactive from the month of the veteran's death. I have amended the description of accrued benefits to reflect this. I have also clarified the description of accrued benefits to make clear that in the absence of an eligible surviving spouse, children, or parents, any accrued benefits available may be paid as reimbursement to the person or entity who paid the costs of the veteran's final illness, funeral, and/or burial, and who was not otherwise reimbursed for such costs.
- Module 7:** I have amended the description of accrued benefits as described above.
- Module 8:** In Part 1 I have updated the address and the fax numbers for the Pension Maintenance Center in St. Paul, MN, having jurisdiction of disability and death pension and parents' DIC cases for California.
- Module 9:** Beginning December 16, 2003, Publ. L. 108-183 provides that the remarriage of a veteran's surviving spouse (at any age) no longer disqualifies the spouse from eligibility for burial in a National Cemetery. Previously, the remarriage had to have been terminated by death or divorce to restore eligibility. I have amended Part 2 to reflect this change.
- Module 11:**
- a. I have added a sentence to the description of the Loan Guaranty program to clarify that the benefit is not available outside the United States, its territories and its possessions.
 - b. I have amended the fact pattern on a question regarding the veteran's liability when a third party assumes the mortgage but then defaults on the loan to make clear the intent of the question.
 - c. Publ. L. 108-183 repealed all time limits for members of the Selected Reserves and National Guard who had established eligibility to VA Loan Guaranty benefits to use their benefits. Previously, their eligibility for Loan Guaranty benefits would have expired September 30, 2009. I have amended the paragraph discussing eligibility for Reservists and National Guard appropriately. I have also amended the answer to the corresponding question on this point.
 - d. Publ. L. 108-183 also provides that beginning January 1, 2004 a veteran's eligible surviving spouse who remarries, and who is over age 57 at the time of remarriage, will not lose eligibility for VA Loan Guaranty benefits because of such remarriage. I have added this to the description of persons other than veterans who are eligible for Loan Guaranty benefits.

- Module 12:**
- a. I have corrected an inadvertent omission of a question from the “Study Questions”—an answer was given in the *Question and Answer Key*, but there was no corresponding question.
 - b. I have also corrected an error on another question regarding the dollar amount of insurance available under SGLI
- Module 15:**
- a. I have amended the recitation of eligibility for benefits under 38 US Code, Chapter 35 to include provisions of Publ. L. 108-183: that a surviving spouse who remarries after age 57 will not lose eligibility under Chapter 35 as a result of that remarriage. I have also noted that if the surviving spouse was younger than age 57 at the time of remarriage eligibility terminates, but can be restored upon termination of the remarriage.
 - b. I have corrected the title of the module to reflect the actual current name of the program (i.e., Survivors’ and Dependents’ Education Assistance).
- Module 17:**
- a. I have added a sentence to the paragraph describing requirements for a Substantive Appeal to emphasize the need for making specific allegations of error(s) of fact and/or law on the Substantive Appeal, and noting that the Board of Veterans’ Appeals (BVA) has authority under 38 CFR § 20.202 to dismiss any appeal that does not make specific contentions.
 - b. I have added a paragraph describing the order in which BVA considers appeals, and giving the requirements for requesting that an appeal be advanced on the docket (38 CFR § 20.900(c)).
 - c. VA has amended 38 CFR § 20.204(c) to permit a recognized representative to withdraw in writing either a Notice of Disagreement or a Substantive Appeal, notwithstanding that it may have been filed by the appellant. [68 FR 13235–36] I have changed the description of who may withdraw an appeal to reflect this change.
- Module 20:**
- a. In July 2003 VA assigned sole jurisdiction for processing applications and authorizing payments for annual clothing allowance to the Prosthetics and Sensory Aids Service at the VA Medical Centers. I have amended Part 2 to incorporate this change.
 - b. Publ. L. 108-183 increased the automobile grant from \$9,000 to 11,000. I have amended Part 3 to reflect this change.
 - c. The U.S. Court of Appeals for the Federal Circuit has held that entitlement to compensation under 38 USC 1151 for qualifying permanent total disability provides eligibility for Special Adapted Housing under 38 USC, Chapter 21, notwithstanding that the disability did not arise as a result of the veteran’s service. [*Kilpatrick v. Principi*, citation not available]
- Also, Publ. L. 108-183 increased the Special Adapted Housing grant to \$50,000, and the Special Home Adaptation grant to \$10,000. I have amended Part 4 to reflect these changes.
- d. Publ. L. 108-183 provides that a surviving spouse who remarries after age 57 will not lose eligibility for survivors’ benefits in general as a result of such remarriage. However, Publ. L. 107-330 had already made a similar provision for surviving spouses and continued CHAMPVA eligibility, but with a qualifying age of over age 55 at the time of remarriage. I have added a sentence to Part 5 to note this exception.

- e. Publ. L. 108-183 also extended eligibility for the spina bifida allowance to children of veterans who served in or near the Korean demilitarized zone (DMZ) between September 1, 1967 and August 31, 1971, on the same basis as for children of veterans who served in the Republic of Vietnam during the Vietnam Era. I have amended Part 6 to incorporate this addition.

In addition to these substantive changes, I have once again made numerous editorial revisions and corrections to the above material to improve the grammar, syntax, readability and flow, again hopefully without changing its underlying sense.

Please remove the Introduction and Index page **iii**, and Modules #3, #4, #6, #7, #8, #9, #11, #12, #15, #17, and #20, and replace them with the revised versions of the same modules. Module #15 will show “***Revision 1, December 2003***” in the bottom right corner. Module #8 will show “***Revision 2, December 2003***” in the bottom right corner. Page **iii** and Modules #7 and #11 will show “***Revision 3, December 2003***” in the bottom right corner. Modules #3, #4, #6, #9, #12, and #17 will show “***Revision 4, December 2003***” in the bottom right corner. Module #20 will show “***Revision 5, December 2003***” in the bottom right corner.

In addition, in the **Question & Answer Key** please remove pages 21 and 22, and replace them with the new pages 21 and 22. These pages will each show “***Revised December 2003***” in the bottom right corner.

/Signed/

Norman Gillett, CACVSO Training Consultant

TRAINING MODULE 1

STUDY PLAN

The U.S. Department of Veterans Affairs (VA): History and Organization

Objective:

To learn basic facts about VA, its history and its organization.

References:

Title 38, U.S. Code.

38 Code of Federal Regulations.

VA Pamphlet 80-00-1, *Federal Benefits for Veterans and Dependents*.

VA Booklet: *The Veterans Benefits Administration: an Organizational History: 1776–1994*.

Instructions:

Study the assigned reference materials for an idea of the scope and extent of the activities and responsibilities of the Department of Veterans Affairs.

Summary:

The United States has the most comprehensive system of veterans' benefits and care of any nation in the world. The history of veterans' benefits in this country dates from the War for Independence. For the first few years veterans' benefits were handled by the Federal courts, but this quickly proved to be unsatisfactory and responsibility for administering benefits was assigned to the War Department.

Initially no clear distinctions were made between service pensions, pensions for needy, aged, or disabled veterans, and pensions based on disabilities arising from military service. Different pension programs, with different eligibility requirements, were enacted for veterans of each of the wars the United States fought during the first half of the nineteenth century. Benefits for survivors of wartime veterans were first authorized about 1806.

Until 1930 responsibility for various veterans' programs was fragmented among several different agencies. During the latter part of the 1800s and the early 1900s, a Bureau of Pensions administered veterans' pension programs; at different times this Bureau was under the jurisdiction of the War Department, the Navy Department, the Treasury Department, and the Interior Department. In 1914 a Bureau of War Risk Insurance was established under the Treasury Department to insure American ships and cargoes against the hazards of carrying war materials to the Allies. When the United States formally entered World War I in 1917, the Bureau of War

Risk Insurance was assigned the additional tasks of providing life insurance for American troops and administering veterans' and survivors' benefits after the war. In 1918 a Federal Board for Vocational Education was established as an independent agency to provide vocational rehabilitation for disabled World War I veterans, based on eligibility as determined by the Bureau of War Risk Insurance. The Public Health Service was charged with responsibility for providing medical care for World War I veterans.

In 1921 the Veterans Bureau was established as an independent agency to consolidate all benefits for World War I veterans (life insurance, disability and death compensation, vocational rehabilitation, medical care) under one agency. The Bureau of Pensions continued to separately exist, to handle benefits for veterans of previous wars and their survivors.

The Veterans Administration was established in 1930, merging the Veterans Bureau and the Bureau of Pensions and finally bringing all veterans' benefits programs under the jurisdiction of a single agency. Following World War II and subsequent, the Veterans Administration grew to become the largest non-Cabinet agency in the Federal Government.

On March 15, 1989, the Veterans Administration became a Cabinet-level agency, changing its name to the U.S. Department of Veterans Affairs. The Administrator of Veterans Affairs became the Secretary of Veterans Affairs. The new agency was composed of three subagencies: the Veterans Benefits Administration (VBA); the Veterans Health Administration (VHA); and the National Cemetery Administration.

VBA administers all of the non-medical benefits programs for veterans, dependents and survivors: the compensation and pension programs; vocational rehabilitation for disabled veterans; various education and training assistance programs for veterans, dependents and survivors; loan guaranty programs for veterans and eligible surviving spouses; and a number of life insurance programs for veterans. VBA also provides a burial allowance for eligible veterans. VBA has three Regional Offices in California: Oakland, Los Angeles, and San Diego.

VHA provides health care facilities for veterans, and in some cases their dependents or survivors. It is one of the largest health care delivery systems in the world. Nationwide, VA operates more than 170 medical centers, more than 80% of which are affiliated with an university school of medicine. VHA averages nearly 100,000 inpatients per day. In addition, VHA operates numerous outpatient clinics, readjustment counseling centers, domiciliaries, and nursing homes. In California there are eight VA Medical Centers (some of which encompass more than one hospital), more than twenty-five Outpatient Clinics, twenty-one Vet Centers, ten Nursing Home Care Units, and two domiciliaries (located at the VA Medical Centers in Palo Alto and West Los Angeles).

The National Cemetery Administration operates National Cemeteries throughout the United States and its territories. There are six National Cemeteries in California, but not all of them are active. Persons eligible for burial in a National Cemetery include veterans and service members who die on active duty; certain Reservists and National Guard members; World War II Merchant Mariners; U.S. citizens who served honorably in the armed forces of an Allied government during a war; and such other persons or classes of persons as may be designated by either the Secretary of Veterans Affairs or the Secretary of the Air Force. The spouse or unremarried surviving spouse and the children (as defined) of eligible persons are also eligible for burial in a National Cemetery.

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. What year did the Veterans Administration become an independent Federal agency?
2. VA has always been a Cabinet-level agency, since its inception. (T/F)
3. How many subagencies are there in the current Department of Veterans Affairs?
4. List the different subagencies within the Department of Veterans Affairs:
 - a. _____
 - b. _____
 - c. _____
5. How many medical centers does the Department of Veterans Affairs operate in California?
6. All of the National Cemeteries located in California are currently active. (T/F)
7. Are non-veterans eligible for burial in a National Cemetery? (Y/N)
8. The Secretary of Defense has authority to decide if a person may be buried in a National Cemetery. (T/F)
9. Which VA Medical Centers in California include a domiciliary?

TRAINING MODULE 2

STUDY PLAN

Veterans Benefits: General Provisions; Definitions; Periods of War

Objective:

To become familiar with the various benefits administered by the U.S. Department of Veteran Affairs (VA), and to become familiar with the general provisions and definitions used in the context of these benefits. Also, become familiar with the various definitions of "wartime service" for purposes of different agencies. Additional definitions and more specific information are in the module for each specific benefit.

References:

Title 38, U.S. Code.

38 Code of Federal Regulations.

VA Pamphlet 80-02-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study all of the reference materials available to become familiar with general provisions governing VA benefits, and the definitions of terms used in connection with adjudication of claims and awarding of benefits. Special attention should be given to the dates of various periods of war, and to distinguish benefits that require wartime service from ones that do not.

Summary:

The Department of Veterans Affairs, its activities, organization, and the scope of the benefits it administers are all authorized under various statutes enacted by Congress. Since 1958 these laws have been codified in Title 38 of the U.S. Code. Section 501 of 38 U.S. Code gives the Secretary of Veterans Affairs the authority to promulgate such regulations as necessary to administer the law. The rules and regulations established for this purpose are codified in 38 Code of Federal Regulations.

By regulation [38 CFR § 1.9(b)(1)], "VA" means all organizational units of the Department of Veterans Affairs. VA is the proper abbreviation for the U.S. Department of Veterans Affairs in all contexts.

Veterans' Benefits: General Provisions; Definitions; Periods of War

In VA context, the term “**benefit**” means either a direct monetary payment or the furnishing of goods or services having a monetary value to or for an eligible veteran, veteran’s dependent, or veteran’s survivor. Monetary benefits include the Compensation and Pension programs for both living veterans and survivors, as well as the various education and training assistance programs. Furnishing of goods and services covers all aspects of VA medical care, as well as VA Loan Guaranty and Insurance programs.

A “**veteran**” is a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, or who died in active service. “**Active military, naval, or air service**” means active duty, any period of active duty for training during which the individual was disabled or died from disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual was disabled or died from an injury (traumatic) incurred or aggravated in line of duty, or from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident (stroke) which occurred during such training or while traveling to or from such training. “**Active duty**” means full-time duty in the Armed Forces, other than active duty for training. This includes service in the Public Health Service, the Coast and Geodetic Survey, the Environmental Science Services Administration, and the National Oceanic and Atmospheric Administration, as well as cadets attending the various service academies or preparatory schools.

A discharge “under conditions other than dishonorable” is a discharge that is either “**Honorable**” or “**General, Under Honorable Conditions.**” In addition, if an enlisted person is administratively separated for certain reasons (such as a voided enlistment because of misrepresentation of age), the discharge may be shown as “**Uncharacterized, Entry Level.**” This is also considered to be under conditions other than dishonorable for VA purposes. In all other cases VA must determine whether the discharge was under conditions other than dishonorable, unless the discharge was for one of the reasons listed in 38 USC 5303 as a bar to all VA benefits.

“**In line of duty**” means that a disease or injury was incurred or aggravated while the veteran was on active military, naval, or air service, unless the disease or injury was the result of the veteran’s own willful misconduct. Line of duty is not met if at the time the disease or injury was incurred or aggravated the veteran was avoiding duty by desertion, or was AWOL which materially interfered with the performance of military duty; if the veteran was confined under sentence of a court-martial involving an unremitted dishonorable discharge; or was confined under sentence of a civilian court for conviction of a felony. “**Willful misconduct**” means conscious, deliberate, and intentional wrongdoing or known prohibited action, with knowledge of or wanton and reckless disregard of the probable consequences. Willful misconduct is not an issue unless it is the proximate cause of injury, disease, or death. Since November 1990 any disability or death arising from the abuse of alcohol or drugs, whether immediate or remote, is by law considered to be the result of willful misconduct, and not in line of duty.

A veteran’s dependent or survivor is a spouse, child, or parent. A “**spouse**” is a person of the opposite sex whose marriage to the veteran was valid under the laws of the place where the parties resided at the time of marriage, or the laws of the place where the parties resided when the right to benefits accrued. A “**child**” is an unmarried person under age 18 who is the veteran’s natural child, whether legitimate or illegitimate; or who was legally adopted before age 18 by the veteran; or who is the legitimate or illegitimate child of the veteran’s spouse and who became a member of the veteran’s household before age 18 and continues to be a member of the household or was so at the time of the veteran’s death. The term also includes a child over age 18 who is

Veterans' Benefits: General Provisions; Definitions; Periods of War

pursuing a course of instruction at an approved educational institution, but not beyond the child's 23rd birthday, or a child over age 18 who became permanently disabled and incapable of self-support (helpless) prior to the child's 18th birthday. A "*parent*" is the veteran's natural mother or father; or adoptive mother or father; or foster mother or father, who stood in the relationship of parent (*in loco parentis*) before the veteran's 21st birthday and for at least one year before the veteran entered active service. If two or more persons stood in such a relationship for a year or more, the person who last stood in the relationship before the veteran entered active service will be recognized as the "parent" for VA purposes.

For persons who first entered service after September 1980 (enlisted personnel) or October 1981 (officers), eligibility for most VA benefits requires that the veteran have served a minimum period of active duty. The minimum active duty service requirement is 24 continuous months or the full period for which the person was called to active duty, whichever is less. Minimum active duty service requirements do not apply if the veteran is discharged because of a service-connected disability; or has a service-connected disability that would have warranted a disability discharge; or has established compensable service connection for any disability, regardless of whether it might have warranted discharge; or if the veteran is released from service early for specified reasons (e.g., hardship, convenience of the Government, etc.).

Minimum active duty service requirements do not apply to the provision of any benefit related to a service-connected disability or death, to include the requirement for 90 days of continuous active service for eligibility for presumptions of service connection for chronic or tropical diseases. They also do not apply to insurance matters or to veterans' re-employment matters.

Minimum active duty service requirements specifically apply to length of the service requirements for nonservice-connected disability and death pension cases based on service during the Gulf War Era, and are in addition to the basic length of service requirement. Meeting the minimum active duty service requirement will generally satisfy the length of service requirements for either death or disability pension. However, if the veteran was discharged from service for any of the exclusions to the minimum active service requirement, the basic length of service requirement for pension (90 days or discharge because of service-connected disability) still applies.

Some benefits such as disability or death pension require that the veteran have "wartime service," or be a "veteran of a war." For VA purposes, it is not required that the veteran have actually served in combat or even overseas, only that he or she served at least one day during a period classed by VA as "wartime." Note that some of the listed periods are not declared wars (by Congress). The Office of Personnel Management (OPM) has different requirements for assigning veterans' preference for employment by the Federal Government based on wartime service. They may require that the veteran have served in a campaign or expedition for which a campaign badge has been authorized (some State veteran's benefits also have this requirement).

The periods recognized by VA as constituting wartime service (excluding those wars which began prior to 1900) are:

- **Mexican Border Period** May 9, 1916 to April 5, 1917, if the veteran served in Mexico, on the borders thereof or the waters adjacent thereto.

Veterans' Benefits: General Provisions; Definitions; Periods of War

- ***World War I*** April 6, 1917 through November 11, 1918, inclusive. If the veteran served with U.S. forces in Russia, the ending date is April 1, 1920. Service after November 11, 1918 and before July 2, 1921 is considered World War I service if the veteran also served in the active military, naval, or air service after April 5, 1917 and before November 12, 1918.
- ***World War II*** December 7, 1941 through December 31, 1946, inclusive. If the veteran was in service on December 31, 1946, continuous service before July 26, 1947 is considered World War II service.
- ***Korean Conflict*** June 27, 1950 through January 31, 1955, inclusive.
- ***Vietnam Era*** February 28, 1961 through May 7, 1975, inclusive, if the veteran served in-country in Vietnam during that period. In all other cases, August 5, 1964 through May 7, 1975, inclusive.
- ***Persian Gulf War*** August 2, 1990 through a (future) date to be prescribed by Presidential proclamation or law.

Veterans' Benefits: General Provisions; Definitions; Periods of War

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. A person who served only in a Reserve component of the Armed Forces is considered to be as much a veteran as a person whose service was on active duty. (Y/N)
2. If a veteran was on active duty on December 31, 1946, what is considered to be the ending date of World War II service?
 - a. March 31, 1947
 - b. July 26, 1947
 - c. October 12, 1947
 - d. November 11, 1947
3. To be considered a veteran, a person's separation from active service must have been:
 - a. Honorable
 - b. General
 - c. Uncharacterized (entry level)
 - d. Any of the above
4. Medical care is considered a "VA benefit." (T/F)
5. If a person on active duty while on authorized leave is under the influence of alcohol and injured in a traffic accident, those injuries are considered to be the result of that person's own willful misconduct, even if the person was not at fault in causing the accident. (T/F)
6. A member of the National Guard who is injured during the mandatory initial period of active duty for training is considered to be a veteran. (T/F)
7. A "helpless child" is defined as one who becomes permanently incapable of self-support due to mental or physical disability before the age of:
 - a. 15
 - b. 18
 - c. 21
 - d. 25

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8. Veteran was in the Army from August 1, 1960 to July 31, 1964. He did not serve outside the U.S. Does he have wartime (Vietnam) service? (Y/N)
9. Only a veteran's natural parents may be recognized as dependents for VA purposes. (T/F)
10. A person on active duty is AWOL from his/her post because of being confined in a civilian jail for grand theft. While in jail, the service person develops a severe infection, which leaves permanent residual disability. Was that infection incurred in line of duty? (Y/N)

TRAINING MODULE 3

STUDY PLAN

Veterans' Claims Assistance Act (VCAA) Duty to Assist and Inform

Objective:

To learn the various classes and types of Compensation and Pension claims, and the extent and limitations of VA's duty to assist a claimant with his or her claim.

References:

Title 38, U.S. Code, Section 5103.

38 Code of Federal Regulations Part 3, §§ 3.1– 3.160.

Adjudication Manual M21-1, Part VI, Chapter 2, paragraph 2.08

VA Pamphlet 80-03-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn the definitions and requirements for establishing status as a proper claimant for VA benefits; the various categories of claims; and the extent of VA assistance in developing evidence to substantiate a claim for VA benefits.

Summary:

1. Background

Over the years VA's responsibility to assist its claimants has undergone many changes. Initially, there were no statutory definitions or instructions regarding duty to assist, but by tradition VA would assist any applicant who had status as a proper claimant to establish all aspects of his or her claim, in preparation for a decision on the merits of the claim. The only requirement was that there had to be "a reasonable probability of a valid claim." However, there were no clear instructions as to what this phrase meant, or what the limits of assistance were. In general, VA would assist the veteran at every step of the claims procedure, although the degree of assistance provided tended to vary widely from time to time and place to place.

The situation changed radically with the passage of the Veterans' Judicial Review Act in 1988. In addition to establishing a Court of Veterans' Appeals (now the U.S. Court of Appeals for Veterans' Claims), the law added a new section 5107 to 38 US Code, which read in pertinent part:

“...a person who submits a claim for benefits...shall have the burden of submitting evidence sufficient to justify a belief...that the claim is well grounded. The Secretary shall assist such a claimant in developing the facts pertinent to the claim.”

Subsequently, a considerable body of case law grew up around the questions of the definition of a “well-grounded claim,” and whether VA could assist a claimant to develop evidence regarding the claim before the claim had been “well-grounded.” The court consistently ruled that VA could not assist claimants unless and until the claim was determined to be well-grounded. In *Morton v. West*, 12 Vet.App. 477 (1999), the court reiterated its position that VA had *no* authority to assist a claimant absent a well-grounded claim, and threatened VA with sanctions if the agency did not cease providing *any* assistance beyond verification of service and requesting service medical records before the claim was determined to be well-grounded.

The stated rationale for this position was that the well-grounded requirement served as a “gate-keeper,” weeding out those claims that were so lacking in merit that there was no possibility they could be allowed, and thus conserving scarce agency resources. In reality, however, the opposite result actually obtained—determining “well-groundedness” was in effect a secondary adjudication of the claim, separate and distinct from a decision on its merits. A finding that a claim was not well-grounded could be appealed, thus expending additional agency resources and causing a decision on the substantive issues in the claim to be even further delayed.

In response to the *Morton* decision, in November 2000 Congress passed the Veterans Claims Assistance Act of 2000 (VCAA). This Act repealed the “well-grounded” requirement for claims, restated VA’s duty to assist the claimant to develop all evidence pertinent to the claim, and required VA to inform the claimant at each step of the claims process as to what VA will do and what the claimant must do to develop evidence sufficient to determine the merits of the claim.

2. Status of Claimant

The VA claims process is a multi-step operation. Before the merits of a claim can be decided, several initial points must first be determined: (1) Does the claimant have status? (2) What kind of claim is being presented? and (3) What are the issues being claimed?

An applicant is a person who *applies for* (a benefit); a claimant is a person who *claims* (a benefit). The difference between them is one of *status*. Persons with status for VA claims purposes are:

- Veterans;
- Spouses (or surviving spouses);
- Children;
- Parents.

An applicant must attain status as one or another of the above classes before he or she is a claimant. The definitions of a veteran, spouse, child, and parent are given in Training Module 2 and are set out in 38 CFR § 3.1. Requirements for status as a veteran are listed in 38 CFR §§ 3.6 and 3.7; the evidence required for the other classes is listed in 38 CFR §§ 3.50–3.60 and §§ 3.204–3.212.

In addition to the above, a recognized fiduciary for a minor, incompetent, or disabled claimant may present appropriate court or other documents to show parental or fiduciary status. A recognized fiduciary may submit any claim or statement, of any nature, on a claimant's behalf, just as if it were submitted by the claimant.

A claimant's authorized representative may present any standard power of attorney documentation (including VA Form 21-22, *Appointment of Veterans Service Organization as Claimant's Representative*) or, if an actual attorney or a claims agent, either a VA Form 22A, *Appointment of Attorney or Agent as Claimant's Representative*, or a statement of representation on the attorney's office letterhead stationery. There are limitations on the actions an authorized representative may take on a claimant's behalf—in general, a representative may not submit any claim or statement on the claimant's behalf if the claimant's signature is required to certify the information therein. Examples of this would include any original application for disability or death benefits, education benefits, health care benefits, etc., as well as eligibility verification reports (EVRs) for pension or parents' DIC, declarations of marital status (VA Form 21-686c), or financial status statements (VA Form 20-5655).

An applicant must establish status as a claimant by a fair preponderance of evidence—this is interpreted as meaning the evidence for status is 50% + 1 in the applicant's favor. ***At this point in the process there is NO resolution of reasonable doubt***—the evidence either establishes status or it does not. Also, ***unless and until status is established there is NO duty to assist*** the applicant (to establish status).

3. Types of Claims

Once the question of status is resolved, the next step is to determine the type and nature of the claim. There are two general classes of claims: those where the veteran is alive, and those where the veteran is deceased. Within these two classes, there are claims for service-connected benefits and claims for nonservice-connected pension. Beyond that, the claims are identified according to their type, as set out in 38 CFR § 3.160 and elsewhere. These are:

- a. Informal claim—any written communication or any action indicating an intent to file a claim for benefits. The communication or action may be from or by the claimant, an authorized representative, a member of Congress, or a person acting as next friend, and must reasonably identify the benefit being sought. Once an informal claim has been received or identified, VA must then furnish the claimant with a formal application, if one has not been previously filed; the claimant has one year from that date to return the application. [38 CFR § 3.155] Under certain circumstances, examination or treatment at a VA or uniformed services medical facility, or at a civilian facility under VA or TRICARE contract, may also constitute an informal claim. [38 CFR § 3.157(b)(1)]
- b. Original claim—the *very first claim* filed for a class of benefit (i.e., disability benefits or death benefits). An original claim is a formal claim, and ***must*** be filed on the form prescribed by the Secretary (VA Form 21-526 for disability claims; VA Form 21-534 for death claims from a surviving spouse and/or children; VA Form 21-535 for death claims from the veteran's parents). [38 CFR §§ 3.151(a), 3.152(a)]

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- c. Pending claim—a claim which is awaiting a decision, *or*, a claim on which a decision has been made but is not yet final, either because the time limit for an appeal has not yet elapsed, or because an appeal was taken but the appellate authority has not yet rendered its final decision.
- d. Finally adjudicated claim—a claim on which a decision has been made, and either the claimant has allowed the specified period to pass without appeal, or, if an appeal was taken, the appellate authority has rendered a final decision. It does not matter if the claim was allowed or denied, although the term is most often used in the context of a denied claim.
- e. Reopened claim—a claim where the issue being claimed has been previously denied and such denial has the status of a finally adjudicated claim. To successfully reopen such a claim, the claimant must submit new and material evidence, and such evidence must raise a reasonable probability of a different outcome. [38 CFR § 3.156(a)] The claim may be either formal or informal.
- f. New claim—a non-original disability claim for a condition not previously claimed as service-connected. The claim may be either formal or informal.
- g. Claim for increase—a disability claim for a condition previously established as service-connected, which the veteran requests to have re-evaluated. Also, a disability, death or other claim where the beneficiary is claiming an additional benefit, such as special monthly pension for aid and attendance, or additional allowance because of a dependent.
- h. Special claim—a claim which does not fall under any of the basic categories listed above. The most common of these is a claim for revision of a final decision because of allegation of clear and unmistakable error of fact or law (CUE).

4. Issue Identification

Although the terms are often used interchangeably, claims and issues are separate and distinct entities. It may help to remember that claims are comprised of issues—for example, an original claim may be for service connection for multiple conditions; each condition being claimed is a separate issue. The evaluation to be assigned for each service-connected condition established is another issue. The veteran might also be claiming additional compensation for dependents—another issue. In addition, the veteran may have also filed an application for Vocational Rehabilitation—yet another issue; and so on, and so on.

In addition to adjudicating all issues claimed, VA is also required to adjudicate any issues noted in the record which would be to the claimant's advantage, even though not specifically claimed. Further, VA is required to adjudicate, or to at least consider, any and all issues raised, inferred, or implied by a liberal reading of the record or by the outcome of those issues which were specifically claimed.

The claimant is not required to state the basis for claiming any particular issue—it is VA's responsibility to determine whether eligibility and entitlement to benefits for that issue may be established on *any* basis, and if so, to identify the basis.

5. Duty to Assist and Inform

The requirements of the VCAA are set out in 38 USC 5103, and are expanded upon in 38 CFR § 3.159. In general, VA has a duty to assist a claimant in obtaining all relevant records, to provide medical examinations, and where appropriate for compensation claims, obtain medical opinions.

Applications are placed into three categories:

- A complete application is one that is signed by the claimant, contains all required information to identify the claimant, to identify the veteran and verify his/her service data, to identify the claimant's relationship to the veteran (if applicable) and identify the nature and basis for the claim, and is accompanied by sufficient medical and other evidence to make a determination on the merits of the claim, although some further development for substantiation may still be required.
- A substantially complete application is one that contains at least the claimant's name, his or her relationship to the veteran (if applicable); sufficient service data to identify the veteran and verify the claimed service; the benefit being claimed and any medical condition(s) on which it is based; and is signed by the claimant. If the claim is for nonservice-connected pension or for parents' DIC, there must also be a statement of the claimant's family income.
- An incomplete application is one that is lacking in any of the parts for a substantially complete application.

If the application is "incomplete," VA is required to inform the claimant what evidence or information is needed to make the claim complete. In this case, there is no duty to assist until the claimant submits the required evidence or information. An incomplete application is considered to be an informal claim, and the claimant has one year from the date of the VA notice to make the claim complete.

If the application is "complete" or "substantially complete," the duty to assist and inform begins—VA is required to inform the claimant as to any additional information and/or medical or lay evidence that may be necessary to substantiate the claim. VA is further required to inform the claimant which information and evidence VA will obtain, and which information and evidence the claimant is responsible for obtaining.

If additional information and/or evidence is requested from the claimant, the claimant must respond within thirty (30) days from the date of VA's request or VA may adjudicate the claim based on the information and evidence already of record. In such cases, however, if the claimant then provides the requested information and/or evidence at any time within one year from the date of VA's request, VA will readjudicate the claim as though the previous determination had not been made, unless the claimant has already initiated an appeal of the decision. Finally, of course, VA is required to inform the claimant of the outcome of the claim (i.e., VA's decision to allow or deny the claim).

6. Extent of duty to assist

- a. VA will in *all* cases obtain service medical records, unless the claim is *only* for nonservice-connected pension.
- b. If the claimant provides information as to their whereabouts, VA will obtain any other records held by the government pertaining to the veteran's military service.
- c. If the claimant provides sufficient information to locate them, VA will obtain the veteran's VA medical records.
- d. If the claimant sufficiently identifies them, VA will obtain any other relevant records held by any Federal department or agency.
- e. If the claimant sufficiently identifies them and provides a valid release satisfactory to the custodian of such records, VA will request records on the claimant's behalf from any private or State or local government source.
- f. VA must make *every possible effort* to obtain relevant records held by any Federal department or agency, unless and until it is reasonably certain that the records do not exist or that continuing efforts to obtain them would be futile. This will generally require a statement from the custodian that the records no longer exist, or that they have been transferred elsewhere.
- g. VA must make *reasonable efforts* to obtain any other (non-Federal) records identified by the claimant as relevant to the claim. This will generally mean one request plus one follow-up request. If, after making reasonable efforts, VA is unable to obtain all of the relevant records, VA must notify the claimant that it has not been able to obtain the specific records sought, and describe any further actions to be taken.
- h. When there is a reasonable possibility that such medical information is necessary to properly decide the claim, VA must provide the claimant with a VA medical examination and/or obtain a medical opinion. However, if the claim is to reopen a previously finally adjudicated issue, a determination as to whether new and material evidence has been submitted must first be made.

7. Limits on duty to assist

- a. There is no duty to assist an applicant attain status as a proper VA claimant.
- b. There is no duty to assist on an incomplete or an informal claim. However, there is a duty to inform the claimant what is needed to make the claim complete, or to provide the claimant with the prescribed form(s) for submitting a formal application.
- c. VA may not obtain any records on the claimant's behalf if a fee is charged for providing such records.

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- d.** There is no duty to assist if the claimant fails to cooperate by not providing sufficient information to identify and locate relevant records, or fails to supply acceptable authorizations for release of records so that VA can request them.
- e.** After making reasonable efforts, if for any reason VA is unable to obtain non-Federal records identified by the claimant, it is the claimant's ultimate responsibility to obtain the records if he or she wishes to have them considered in the decision.
- f.** VA is not required to provide assistance to a claimant if there is no reasonable possibility that such assistance would aid in substantiating the claim (e.g., the claim is inherently incredible, or there is no legal eligibility for the benefit being sought).
- g.** Since it is based on the record that existed at the time of the disputed decision, there is no duty to assist on a claim of clear and unmistakable error (CUE). However, if the error was a denial of service connection there *may* be a duty to assist in obtaining evidence to support retroactive and current evaluations.
- h.** Duty to assist ends when all of the identified evidence has been obtained, or when sufficient evidence has been obtained to support granting the benefit(s) being sought.

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. For VA benefits purposes, the terms “applicant” and “claimant” are synonymous.
(True / False)
2. VA has an absolute duty to assist any person applying for VA benefits to establish both status and eligibility to such benefits. (True / False)
3. Under which of the following circumstances does VA *not* have a duty to assist?
 - a. The applicant is not a veteran, spouse, child, or parent.
 - b. An unsigned application is received from a veteran.
 - c. The veteran fails to sign an authorization for release of records from his private physician when requested by VA.
 - d. All of the above.
4. If the claimant describes them sufficiently to identify, VA must make every possible effort to locate and obtain records in the possession of government agencies at any level, unless and until it is determined that the records no longer exist, or that further attempts to obtain them would be futile. (True / False)
5. The veteran enlisted on May 15, 1975. He was discharged July 31, 1975 because of an injury during basic training that precluded further military service. He now submits a claim for nonservice-connected pension at age 50. He has been found disabled by reason of cancer by the Social Security Administration. He claims indigence and asks that VA schedule an examination to determine if he is in need of aid and attendance. Is VA required to provide assistance with the claim? Why?
 - a. Yes. The veteran served less than 90 days, but he was discharged for service-connected disability. He meets income and disability requirements for basic pension, so VA has a duty to provide a medical examination for aid and attendance.
 - b. No. The veteran did not serve during a wartime period, so there is no legal eligibility to pension. Without basic eligibility to the benefit being claimed, there is no duty to assist.

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6. Same fact pattern as the previous question, except the veteran served in 1995 instead of 1975. Would VA now be required to provide assistance by scheduling an examination?
 - a. Yes, for the reasons shown.
 - b. No, for the reasons shown.
7. A claimant is not required to specify the basis on which benefits are being claimed for a particular issue. (True / False)
8. When VA asks a claimant to provide evidence or information needed to decide a claim, the claimant is asked to submit such evidence or information within thirty (30) days. What action(s) will VA take if the claimant does not provide the requested evidence or information until six months later?
 - a. None—the claimant failed to provide the evidence or information requested within the specified time period, so the claim was adjudicated on the basis of the evidence already of record (if any). There is no basis for reopening the issue now except on appeal.
 - b. The claim is considered to be reopened, based on the receipt now of the evidence or information previously requested. If benefits are allowed, they may only be paid from the date the claim was reopened.
 - c. So long as the evidence or information is received within one year from the date VA requested it, the claim will be adjudicated from the beginning. If an unfavorable decision was made based on the evidence or information already of record, the claim will now be re-adjudicated as though the previous decision had not been made. If benefits are allowed, they will be paid from the date appropriate for the entire claim.
 - d. None of the above.
9. What is VA's duty to assist on a claim of clear and unmistakable error (CUE)?
 - a. The same as for any other claim—VA must help to obtain any and all relevant evidence identified.
 - b. Assistance is limited to obtaining only such evidence as would confirm that the previous decision was erroneous.
 - c. None—a claim for CUE is limited to the evidence of record at the time the decision was rendered. There is no additional development to be done, so there is no duty to assist.

TRAINING MODULE 4

STUDY PLAN

Service Connection; Disability Compensation

Objective:

To learn how to assist a veteran with a claim for service-connected disability or other compensation, and to become familiar with the references used in these types of cases.

References:

Title 38, U.S. Code, Chapter 11.

38 Code of Federal Regulations Part 3, §§ 3.301–3.385; § 3.800; §§ 3.951–3.957; Part 4

Adjudication Manual 21-1, Part VI; Appendix B

VA Pamphlet 80-03-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn how service connection may be established for various conditions and what are the bases for payment of disability compensation. Although the program is called “Compensation and Pension,” be careful not to confuse the different types of benefits. Pay very careful attention to the information given in the initial application for compensation, as that will be the basis for development of the claim.

Summary:

The term “compensation and pension” denotes the VA monetary benefit programs paid on account of a veteran’s disability or death. Although the terms are often used more or less interchangeably, they are in fact separate and distinct sets of benefits.

When we say compensation, we are nearly always talking about compensation for one or more *service-connected disabilities*. When we say pension, we mean an income-based benefit for veterans who served during a period of war and who are totally disabled from causes not related to service. Pension is discussed in a separate module.

Service Connection; Disability Compensation

1. Service connection:

Service connection is the relationship of a particular disabling condition to the veteran's service. This is accomplished by showing that a condition began during service (incurrence), or that a pre-existing condition was made permanently worse than it would have otherwise been (aggravation), or by the application of certain statutory presumptions.

Formal application for service-connected disability compensation is made by submitting a completed VA Form 21-526, *Veteran's Application for Compensation or Pension*, together with appropriate medical and other supporting evidence. Under certain circumstances, an application for service-connected compensation may also be an application for nonservice-connected disability pension, if the veteran served during a wartime period and completes the portions of the application pertaining to total disability and to family income and net worth.

An *incurred* disability may have been directly caused by service (e.g., a combat wound), or it may be the remote result of some incident of service (e.g., cancer due to asbestos exposure), or it may have simply begun coincident with service (e.g., diabetes). It is not required that the condition be diagnosed during service or even shown in the service records, only that the evidence taken as a whole shows that the condition must have begun during service, or was the result of service or some incident thereof.

A pre-existing disability which becomes permanently worse during service will be held to have been *aggravated* by service unless there is a specific finding that the increased severity is the result of the condition's natural progress. Generally, there is a presumption of aggravation when a pre-existing condition increases in severity during service.

For conditions which first appear after entering service, the veteran is presumed to have been in sound condition at the time of entry into service except for those conditions actually noted on the entrance examination (this does not include conditions recorded by history only). This presumption of soundness may be rebutted by clear and convincing evidence that the particular condition existed before the veteran entered service.

Service connection based on either incurrence or aggravation during service is called *direct* service connection. Direct service connection may only be established for a chronic or permanent disability. This can be established in several ways:

- (1) The conditions listed in 38 CFR § 3.309(a) are chronic by definition, as a matter of law—if one of these conditions is properly diagnosed in service, then it does not matter how long after service the veteran first claims service connection or how long after service the condition again becomes manifest; it is considered to be the same condition as was shown in service, unless it is clearly shown to be of intercurrent origin. [38 CFR § 3.303(b)]
- (2) Some disabilities are by their very nature permanent, such as amputations or scars from burns, combat wounds, or surgical procedures.
- (3) Continuity and chronicity may be factually established, by repeated episodes or recurrences of the condition during and/or after service. The longer the interval between service and the time the veteran claims service connection, the greater the evidence of continuity and chronicity required.

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- (4) In all other cases, there must be medical evidence or a professional opinion linking or relating the current condition(s) to the disease, injury, or incident in service (the “nexus”).

Certain chronic and tropical diseases will be *presumed* to have begun during service if they become manifest to a compensable degree within a specified time (generally, one year) after service, even though there is no evidence of the disease during service. Chronic diseases shown before service, but not during service, may be presumed to have been aggravated by service if they then become manifest to a compensable degree within the specified time periods. In addition, specified diseases are presumed to be the result of certain incidents of service (prisoner of war, participation in “radiation-risk” activities, herbicide exposure) if they become manifest to a compensable degree at any time after service (lifetime presumption). Other presumptive periods are specified for undiagnosed illnesses associated with service in the Persian Gulf area (until September 30, 2011), and for certain diseases associated with herbicide exposure (one year after leaving Vietnam for chloracne, porphyria cutanea tarda, and peripheral neuropathy). [38 CFR § 3.307(a)] These presumptions are intended to be liberalizing features, to allow service connection when the evidence would not otherwise support it.

The diseases to which presumptions may be applied are listed in 38 CFR § 3.309 (§ 3.317 for Gulf War undiagnosed illnesses). The various time limits for manifestation of presumptive diseases are listed under 38 CFR § 3.307(a). **ONLY THE DISEASES SPECIFICALLY LISTED, AND NO OTHERS**, are subject to a presumption of service connection. These presumptions may be rebutted by affirmative evidence showing that the disease being claimed was either due to intercurrent causes or could not have had its inception within the specified time frame(s), or, if the disease pre-existed service, that any increase in its severity was due to its natural progress.

No presumptions may be invoked on the basis of the degree of advancement of the disease when first definitely found (after the presumptive period) to establish that the disease was present to the required extent during the applicable presumptive period. [38 CFR § 3.307(c)] This does not mean that the disease must be *diagnosed* during the presumptive period, only that there is acceptable evidence of characteristic manifestations of the disease to the required degree, followed without an unreasonable lapse of time by a definitive diagnosis. (Note, however, that the degree of advancement of a condition at the time it is first found *may* be a basis for finding that the condition was present but unrecognized while the veteran was still on active duty.)

Secondary service connection may be established for a new condition which is directly and proximately caused by an established service-connected condition. This includes those conditions which are side-effects or complications of treatment for a service-connected condition. [38 CFR § 3.310(a)] Under certain circumstances, secondary service connection may be established for a nonservice-connected condition which is aggravated beyond its normal progression by a service-connected condition.

There are special rules for establishing service connection for a hearing loss. Notwithstanding that no hearing loss is shown on entrance examination, and that while on active duty the veteran is diagnosed as having a hearing loss, service connection still may not be established for that hearing loss unless and until it meets the minimum levels set out in 38 CFR § 3.385.

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Service connection may not be established for transitory illnesses or superficial injuries, which resolve or heal with no ascertainable chronic or permanent residuals. [38 CFR § 3.303(b)] Similarly, service connection may not be established for congenital or developmental defects such as a personality disorder or simple refractive error of the eye. [38 CFR §§ 3.303(c), 4.9] Service connection by aggravation may not be established if the pre-existing condition does not become *permanently* worse during or after service (except for conditions which become symptomatic during or immediately following combat or internment as a prisoner of war). [38 CFR § 3.306(b)(2)] Remedial treatment in service for a pre-existing condition will not establish service connection unless the treatment is unsuccessful or otherwise aggravates the condition. [38 CFR § 3.306(b)(1)] Service connection may not be established for any disease or injury which is not incurred or aggravated in line of duty, or which is either the direct or the remote result of the veteran's own willful misconduct. [38 CFR § 3.301(a)]

There is no minimum length of service required to establish direct service connection by incurrence or aggravation. Presumptive service connection for a chronic or tropical disease requires that the veteran have at least 90 consecutive days of active service during a wartime period or after January 31, 1946. [38 CFR § 3.307(a)(1)] Presumptions based on status as a prisoner of war require that the veteran have been held captive for at least 30 days, except for mental or emotional disorders (not dementias), residuals of frostbite, and post-traumatic arthritis, which no longer have a minimum length of captivity requirement. [38 CFR § 3.309(c)] Other presumptions require affirmative evidence that the veteran met (or meets) specific requirements as to exposure, service at specified locales during specified times, etc.

When service connection has been established for a condition under any provision of applicable law, including the provisions described above, such service connection may not be removed (severed) unless evidence clearly shows that the establishment of service connection was clearly and unmistakably erroneous, and that the continuation of service connection cannot be maintained or supported under any reasonable theory (the burden of proof being on the government). [38 CFR § 3.105(d)] When service connection for any condition has been in effect for ten years, it becomes protected and may not be severed for any reason whatsoever, except upon a showing that it was based on fraud or a showing that the veteran did not have the requisite service or character of discharge. [38 CFR § 3.957]

2. Disability Compensation:

Disability compensation is the monthly monetary benefit payable for service-connected disabilities. Compensation rates are not income-based—they are determined by the level of impairment in accordance with the *Schedule for Rating Disabilities* [38 CFR, Part 4]. There are eleven possible levels of disability assignable for any condition, from 0% to 100%, in 10% increments. Each listed degree of severity is based on the *average* impairment of earning capacity for a person with that condition at that level of symptomatology. The veteran's age is not considered in this determination. When a disability has been evaluated at or above any given level for twenty years or more, the evaluation is protected and may not be reduced below that level for any reason other than a showing that it was based upon fraud. [38 CFR § 3.951]

If there is more than one service-connected condition, the individual percentages are not added together to determine the overall degree of disability. Rather, they are *combined* in accordance with the combined ratings table set out in 38 CFR § 4.25.

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If the combined evaluation is 30% or greater, additional rates of compensation may be payable for the veteran's dependents. If the veteran's spouse is disabled and in need of aid and attendance, additional amounts above the regular rates may be payable. Additional amounts may also be payable for the veteran's child or children up to age 18, or beyond age 18 if the child is attending an approved school (up to age 23), or if the child became disabled and permanently incapable of self-support (helpless) before age 18. Additional amounts may also be payable if the veteran's parents are dependent on the veteran for support.

If a veteran has multiple compensable (10% or more) service-connected conditions involving both arms or both legs or paired skeletal muscles, the combined evaluation for *only* those conditions is first found, before considering any other condition(s); 10% is then *added* (not combined) to that combined evaluation, and any other remaining service-connected conditions are then combined with that total in the usual manner. This is the “*bilateral factor*.” [38 CFR § 4.26] The bilateral factor is not usually for application if the veteran is otherwise ratable at 100%; however, it may be used to reach an overall combined 100% rating. Also, if the veteran has multiple service-connected conditions with one single condition rated 100% plus other, separate, compensable conditions involving paired extremities or paired skeletal muscles, the bilateral factor may be used to reach an independent combined rating of 60% for entitlement to special monthly compensation (see below).

If a veteran has two or more service-connected conditions which are each individually rated as non-disabling (0%) but which together clearly interfere with normal employability, compensation may be authorized at the 10% rate, but not in combination with any other rating. [38 CFR § 3.324]

If service connection is established by aggravation, the degree of severity of the condition at the time the veteran entered service must be determined, if possible. That evaluation is then deducted from the current evaluation, and the resulting difference is the degree of aggravation. If the pre-service degree of severity cannot be determined, no deduction is made. Also, if the condition is currently evaluated as 100% disabling no deduction is made. [38 CFR §§ 3.322, 4.22]

If a veteran is hospitalized for more than twenty-one days for observation or treatment of a service-connected condition, a temporary 100% rating may be assigned for that condition without regard to other provisions of the *Schedule for Rating Disabilities*, from the date of hospital admission to the last day of the month of hospital discharge. Under certain circumstances, a period of post-hospital convalescence of one, two, or three months may also be assigned. [38 CFR § 4.29]

If a veteran undergoes surgical treatment for a service-connected condition, whether as an inpatient or as an outpatient, or has therapeutic immobilization by cast of one or more joints for a service-connected condition and such treatment or immobilization requires a period of convalescence of one month or more, a temporary 100% rating may be assigned for that condition without regard to other provisions of the *Schedule for Rating Disabilities*, beginning the date of hospital admission or the date the outpatient treatment commenced and extending for a period of convalescence of one, two, or three months, as appropriate. In certain instances, the period of convalescence may be extended, up to a maximum length of twelve months. [38 CFR § 4.30]

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Additional rates of special monthly compensation are payable for the anatomical loss or the loss of use of one or both hands, one or both feet, one or both eyes, or other specified organs or parts. This special monthly compensation is paid in addition to, or in some cases in lieu of, the regular rates of compensation otherwise payable. Special monthly compensation is also payable if the veteran has one single service-connected condition rated 100% disabling plus other, separate, service-connected condition(s) independently ratable at 60% or more in combination, or if the veteran is permanently housebound, or is in need of regular aid and attendance. [38 CFR § 3.350]

Veterans whose combined evaluations are less than 100% may still be rated as totally disabled and paid at the 100% rate, if they are unable to obtain and maintain substantially gainful employment because of their service-connected disabilities (individual unemployability). The basic schedular requirements are that the veteran must either have one single service-connected disability rated at 60% or more, or have multiple disabilities which combine to 70% or more with at least one disability rated at 40% or more.

For the purpose of establishing the single 60% or the single 40% disability, certain specified combinations of disabilities will count as a “single disability,” such as:

- Multiple disabilities involving paired extremities;
- Multiple disabilities involving a single body system (e.g., orthopedic, neuropsychiatric, etc.);
- Multiple disabilities arising from a common etiology or a single accident;
- Multiple injuries received in combat; or
- Multiple disabilities related to having been a prisoner of war.

Marginal employment, defined as earned annual income less than the poverty threshold for one person, is not “substantially gainful employment,” and does not preclude a finding of individual unemployability if it would otherwise be appropriate. [38 CFR § 4.16(a)]

The various rates of compensation and special monthly compensation are set out in Adjudication Manual M21-1, Appendix B.

Usually, only service-connected disabilities are considered in determining the levels and rates of disability compensation. There are two exceptions: if a veteran has loss or loss of use of paired extremities (arms, legs) or paired organs (eyes, ears, kidneys, lungs), and one extremity or organ is service-connected but the other extremity or organ is not service-connected (and not the result of willful misconduct), disability compensation (including special monthly compensation) is paid as though **both** were service-connected. [38 USC 1160, 38 CFR § 3.383] Since these disabilities are at least in part service-connected, the veteran is entitled to any ancillary benefits flowing therefrom. However, if the veteran receives any payment from a judicial award, settlement, or compromise based on the loss or loss of use of the paired (nonservice-connected) extremity or organ, the additional portion of compensation based on that loss must be withheld to recover the amount of the award, settlement, or compromise. This does not apply to Social Security or Workman’s Compensation benefits, even if they were awarded by judicial proceedings.

The second exception is disability compensation under 38 USC 1151: if a nonservice-connected disabling condition is caused by, or aggravated by, VA examination, hospital care, medical or surgical treatment, Vocational Rehabilitation, or (beginning November 1, 2000) a program of

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Compensated Work Therapy under 38 USC 1718, then compensation is payable for that condition *as though* the condition was service-connected. Remember, however, that even though compensation is being paid, the condition is in fact **NOT SERVICE-CONNECTED** and should not be called such. Ancillary benefits beyond compensation are limited in Section 1151 cases: in general, they are limited to priority medical care; a clothing allowance (where applicable); and where the qualifying level of disability is present, special adapted housing under 38 US Code, Chapter 21.

Compensation for disabilities under Section 1151 may be combined with compensation for any service-connected conditions the veteran may also have. If the veteran is awarded any amount from a judicial award, settlement, or compromise for the same condition(s) for which compensation under Section 1151 has been (or will be) authorized, the compensation otherwise payable for such condition(s) must be withheld until the full amount of the award, settlement, or compromise has been recovered. [38 CFR §§ 3.358, 3.800]

Service Connection; Disability Compensation

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. Service connection may not be established for any condition unless it is shown in the service records. (T/F)
2. Cite the regulation which defines the level of severity required to establish service connection for hearing loss.
3. Is asthma a disease which can be service-connected if shown within one year after service even though there is no evidence of it in the service record? (Y/N)
4. A person is considered to be healthy and in sound condition when entering service except for those defects actually shown on the entrance examination. This is called:
_____.
5. If a pre-existing condition becomes symptomatic during or immediately after combat or while the veteran is a prisoner of war, that condition will be considered to have been aggravated. (T/F)
6. All veterans who served in Vietnam or the waters offshore during the Vietnam Era are considered to have been exposed to herbicides. (T/F)
7. A veteran is rated 30% for a heart condition, 20% for a knee condition, and 10% for hearing loss. His combined evaluation is: _____%.
8. Can service connection be established for an injury suffered by a veteran while in a program of Vocational Rehabilitation? (Y/N)
9. What is the presumptive period for diseases specific to former prisoners of war?
_____.

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- 10.** Is there a minimum length of service requirement for direct service connection? (Y/N)
- 11.** What is the minimum combined evaluation for which additional compensation for dependents may be paid? _____%.
- 12.** What is the presumptive period for multiple sclerosis?
- 13.** What is the presumptive period for lung cancer for a Vietnam veteran?
- 14.** Which of the following dental conditions may be service-connected for compensation purposes?
 - a.** Carious teeth
 - b.** Periodontal disease
 - c.** Replaceable missing teeth
 - d.** None of the above
- 15.** For a veteran who was exposed to ionizing radiation in the course of his or her regular duties, only those conditions listed in 38 CFR § 3.311(b)(2) may be recognized as having been caused by radiation exposure. (T/F)
- 16.** A veteran is rated 30% for a combat injury to the left arm and 30% for a combat injury of the right arm. He is unable to work because of these injuries. Does he meet the requirements for a rating of total disability because of individual unemployability? (Y/N)
- 17.** What is the term used when a particular condition is not listed in the Rating Schedule so VA uses the rating criteria for another condition that affects the same body system and has similar symptomatology? _____
- 18.** When service connection by aggravation is established for a pre-existing condition, the pre-service severity of the condition must be deducted from the current severity to determine the level of compensation payable. (T/F)

Service Connection; Disability Compensation

- 19.** What is the minimum length of service requirement for entitlement to consideration under the presumptive provisions of the law?
- 20.** Which of the following diseases may not be presumed to be the result of herbicide exposure in a Vietnam veteran?
 - a.** Liposarcoma
 - b.** Prostate cancer
 - c.** Colorectal cancer
 - d.** Lung cancer
- 21.** What is the ending date for presumptions of service connection for undiagnosed illnesses in a Gulf War veteran?

TRAINING MODULE 5

STUDY PLAN

Disability Pension

Objective:

To learn how to assist a claimant submit a claim for nonservice-connected disability pension, and to become familiar with the requirements for such claims.

References:

Title 38, U.S. Code, Chapter 15.

38 Code of Federal Regulations, Parts 3 and 4.

Adjudication Manual M21-1, Parts IV and VI; Appendix B.

VA Pamphlet 80-02-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn the requirements for disability pension claims. Pay special attention to the income and net worth information in the application, as that will be a major portion of the development of the claim.

Summary:

Disability pension is an income supplement program for low-income disabled veterans and their families. There are three basic requirements: wartime service, income and net worth within specified limits, and permanent disability sufficient to preclude substantially gainful employment.

VA currently maintains three disability pension programs:

“Old law pension,” also known as “protected pension”;

“Section 306 pension,” also known as “86-211 pension”; and

“Improved pension,” which is the current pension program.

Improved pension began on January 1, 1979. All persons who were in receipt of pension under either of the prior pension laws, or who had a pension claim pending on that date, are protected under those laws for as long as they continue to meet the income and net worth limits of their

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program. If the pension award is terminated for any reason such as loss of a dependent, the veteran may only reopen the claim under the current (improved) pension program. In addition, since the veteran's status is in effect frozen, a veteran may not claim additional pension because of being housebound or being in need of regular aid and attendance unless he or she elects improved pension. The balance of this module pertains to the current pension program.

Qualifying wartime service for pension purposes means that the veteran served on active duty for at least 90 consecutive days, at least one day of which was during a wartime period; or if less than 90 days, was discharged because of disability for which service connection could be established without resort to any presumptive provisions of the law; or had a disability for which service connection could be established which would have warranted a discharge for disability; or had two or more separate periods of active service for an aggregate of 90 days or more during more than one period of war. For those veterans whose wartime service was Gulf War Era, minimum active service requirements (24 consecutive months or the full period for which called to active duty, whichever is less) apply: the veteran must meet either the minimum active service requirement or the general qualifying service requirement above, whichever is greater.

Income and net worth limits for improved pension are spelled out in 38 U.S. Code, Sections 1521 and 1522. The income limits are adjusted periodically. The adjusted limits are published in the "Notices" section of the *Federal Register*, and listed in Adjudication Manual 21-1, Appendix B. All of the veteran's income from all sources is counted unless specifically excluded. Higher income limits apply if the veteran has dependents; however, the dependents' incomes are also counted, as well. In addition, higher income limits also apply if the veteran is housebound or in need of regular aid and attendance. Finally, if the veteran served during the Mexican Border Period or during World War I, the income limit is further raised in addition to any other consideration.

Pension is not payable if the veteran's and/or the family's net worth is of such size that it would be reasonable for the net worth to be consumed for the maintenance of the veteran and family. This is determined on a case-by-case basis, taking into account such factors as the nature, source(s), and amount(s) of income and assets; the nature and amount(s) of debts and expenses; the number and age(s) of any dependents; the amount of anticipated educational expenses for dependents; the veteran's and dependents' state of health; and the anticipated life expectancy of the veteran and/or the dependents. In general, net worth is not a factor for consideration unless it is greater than \$80,000.

To determine the actual pension rate(s) payable, the veteran's total annual countable family income (after exclusions and deductions) is subtracted from the applicable income limit and the difference divided into twelve equal payments. If the total annual amount payable would be less than 4% of the maximum annual rate, payments may be made quarterly, semi-annually, or even annually (depending on the amount payable), unless the veteran specifically requests a monthly payment.

The final requirement is that the veteran be permanently totally disabled. All of the veteran's disabilities, both service-connected and nonservice-connected, may be considered. The only requirements are that the disability is permanent, that it is not the result of the veteran's own willful misconduct, and that it is sufficient to preclude substantially gainful employment for which the veteran would otherwise qualify, based on his or her age, education, and work history.

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The disabilities are evaluated according to the criteria set out in the *Schedule for Rating Disabilities*. If the veteran's disabilities are less than 100% disabling, the percentage requirements set out in 38 CFR § 4.16 for total disability based on individual unemployability apply in pension claims, also. Marginal employment does not preclude a finding of permanent total disability, so long as disability is the reason the veteran is unable to procure better employment. Marginal employment for pension purposes is defined as working less than half the usual number of hours or being paid less than half the prevailing wage for the particular work performed. [38 CFR § 4.17(a)] If a veteran does not meet the percentage requirements but is shown to be unemployable because of the combination of disability and other factors, the case is to be referred to the Adjudication Officer or Service Center Manager for consideration of extraschedular entitlement.

Beginning September 17, 2001, a veteran who is age 65 or older will be considered to be permanently totally disabled for pension purposes without the need for a rating to determine disability. In addition, a veteran under age 65 who has been found permanently totally disabled by the Social Security Administration for any of their benefit programs, or who is a patient in a nursing home for long-term care because of disability, will also be considered to be permanently totally disabled for pension purposes, without the need for a rating.

Higher maximum annual pension rates apply if the veteran is so severely disabled as to be housebound or in need of regular aid and attendance. Entitlement may be determined on a factual basis, or it may be based on certain presumptions spelled out in 38 CFR § 3.351: If a veteran with multiple disabilities has one single condition which is ratable at 100% under the *Schedule for Rating Disabilities* plus other independently ratable conditions which combine to 60% or more, special monthly pension at the housebound rate is payable. A veteran will be presumed to be in need of regular aid and attendance if he or she is a patient in a nursing home because of disability, or if he or she is blind, with best vision in both eyes no better than 5/200 or concentric contraction of visual fields to 5° or less bilaterally.

There are special provisions when two wartime-era veterans married to each other are both permanently totally disabled for pension purposes. Rather than each spouse being paid separately with the other spouse listed as a dependent, both spouses are paid on a single unified award, with the maximum annual pension rate appropriate for a veteran with that number of dependents. If both veterans are housebound or in need of aid and attendance, or both veterans served during World War I or the Mexican Border Period, the maximum annual pension rate is increased by twice the amount indicated for a similarly circumstanced veteran whose spouse was not a veteran.

Disability Pension

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. Veteran and spouse have income from the following sources. The spouse is also a veteran, and is receiving compensation for a SC hysterectomy. Indicate which income is not countable for improved pension purposes:
 - a. Social Security
 - b. County payments for acting as foster parents
 - c. Rental income
 - d. VA compensation
2. Veteran had traumatic amputation of both feet in an industrial accident. He returned to work and continued until reaching normal retirement for longevity.
 - a. Can he be rated PT for pension purposes? (Y/N)
 - b. Why?
3. Veteran was inducted into service in early 1945. Six weeks after starting basic training, he was found to have a small duodenal ulcer. This disqualified him for overseas duty, so he was discharged after being on active duty for two months and ten days. SC was established for the ulcer, but it was never symptomatic and was always rated 0% disabling. Does he meet service requirements for VA pension? (Y/N)
4. While driving under the influence of alcohol, Gulf War veteran hit a freeway overpass abutment. He suffered massive head and neck injuries, and is now quadriplegic and demented.
 - a. Can he be rated PT for pension purposes? (Y/N)
 - b. Why?
5. A blind veteran, with no light perception in either eye, is considered to be in need of regular aid and attendance. (T/F)
6. Additional pension for aid and attendance based on blindness will be reduced when the veteran is admitted to a VA medical facility. (T/F)

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7. Veteran's spouse inherited \$100,000 from a deceased relative. This makes the veteran's family income over the limit for VA pension for the twelve months following receipt. What effect does it have on future entitlement to pension?
8. Is the home in which the veteran and his or her spouse reside considered as part of the corpus of their estate for improved pension purposes? (Y/N)
9. Elderly veteran did not complete grade school, and does only menial, unskilled jobs on an occasional basis. He works on average two or three days each month, and survives only by the kindness of friends. He is in good health, and his only ratable disability is moderate varicose veins. Could he be rated as PT for pension purposes? (Y/N)
10. How can a veteran who is receiving Section 306 pension claim additional pension for aid and attendance?
11. The veteran served from February 15, 1998 to June 30, 1998. He was administratively discharged under honorable conditions because of inadaptability. Does he meet service requirements for disability pension? (Y/N)

TRAINING MODULE 6

STUDY PLAN

Dependency and Indemnity Compensation (DIC)

Objective:

To learn how to assist a claimant to submit a claim for Dependency and Indemnity Compensation (DIC), and to become familiar with the requirements for such claims.

References:

Title 38, U.S. Code, Chapter 13.

38 Code of Federal Regulations, Part 3.

Adjudication Manual M21-1, Parts IV and VI; Appendix B.

VA Pamphlet 80-03-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn the requirements for DIC claims. If the claim is for a surviving parent, pay special attention to the income information in the application, as that will be a major portion of the development of the claim.

Summary:

Dependency and Indemnity Compensation (DIC) is the primary monthly monetary benefit payable to the surviving dependents of a deceased veteran, and is the equivalent benefit to disability compensation for veterans. Although it is usually a service-connected benefit, DIC may also be authorized for certain nonservice-connected deaths, as well.

From time to time you may still come across a surviving dependent in receipt of death compensation. This is the predecessor benefit to DIC, and is generally payable under the same conditions as DIC. From 1957 on, DIC was the benefit payable in nearly all cases, although up to 1972 there were certain circumstances where death compensation could be authorized. Death compensation cases are protected at their current levels so long as the claimant continues to meet eligibility requirements. As a result, unless the claimant elects to change to DIC additional amounts such as for aid and attendance are not payable.

As with disability compensation for a veteran, DIC for a surviving spouse and/or children is not income-based. It is the benefit payable if the veteran died while on active duty, not due to willful misconduct; or, when death was after service, if a service-connected disability either directly

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caused, or contributed substantially to and materially hastened, the veteran's death. It is not required that service connection have been established prior to the veteran's death for the condition which caused or contributed to death. The rules and procedures for establishing service connection for a veteran's death are essentially similar to those for establishing a service-connected disability for a living veteran, with due consideration of the finality of the evidence in a death claim.

Since 1978, DIC has been payable *as if* the death were service-connected when a veteran who had been rated totally disabled from service-connected causes (whether 100% or by reason of individual unemployability) for ten continuous years or more at the time of death dies from any cause other than willful misconduct. If the veteran was out of service less than ten years, DIC is payable if a total disability rating was in effect for a period of at least five continuous years, from the date the veteran left service to the date of death. Beginning November 30, 1999, DIC is payable to the surviving spouse and/or child of a former prisoner of war who was rated totally disabled from service-connected causes for at least one year at the time of death and who died from any cause other than willful misconduct after September 30, 1999. [38 USC 1318]

Finally, DIC is also payable *as if* the death were service-connected, if the veteran dies as a result of VA examination, hospital care, medical or surgical treatment, Vocational Rehabilitation, or (beginning November 1, 2001) a program of Compensated Work Therapy under 38 USC 1718, or if a disability arising from such circumstances either directly causes, or contributes substantially to and materially hastens, the veteran's death. In this case, however, DIC is the *ONLY* benefit available; there are no ancillary benefits such as Loan Guaranty or education assistance. Again, the rules and procedures for establishing a qualifying compensable event are similar to those for a living veteran. [38 USC 1151]

DIC rates payable for a surviving spouse and/or children are dependent on a number of factors, including when the veteran died and the number and status of dependent children, if any. If the veteran died on or after January 1, 1993, there is a basic rate payable for the surviving spouse, plus an enhanced rate if the veteran had been rated totally disabled (or could have been so rated, if it was not done while the veteran was alive) for eight continuous years or more at the time of death. However, the enhanced rate is not payable if the spouse was not married to the veteran for the entire eight-year period, or if the veteran had not been out of service for eight years at the time of death. If the veteran died before January 1, 1993, the rate for the surviving spouse is based on the highest pay grade attained by the veteran on active duty *or* the basic/enhanced rates described above, whichever is the greater. In both cases, additional amounts are payable for the veteran's eligible children. Additional amounts are also payable to a surviving spouse who is housebound or is in need of regular aid and attendance, as set out in 38 CFR § 3.351.

If there is an eligible surviving spouse, the veteran's minor children are considered to be additional dependents on the spouse's award. If the children are in the spouse's custody, they are included on the spouse's basic award. A child not in the spouse's custody will be paid his or her share of DIC on a separate award. Regardless of custody, each child is permanently removed as a dependent from the spouse's award upon reaching age 18. If there is no eligible surviving spouse, there are specified rates for the veteran's children, in equal shares, up to the time of each child's 18th birthday. Upon reaching age 18, each child attains independent entitlement to DIC without regard to whether there is an eligible surviving spouse. DIC may only be paid to or for a child after age 18 if the child is attending an approved educational institution or is determined to be

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permanently incapable of self-support (helpless). DIC for school attendance may not be paid concurrently with Dependents' Education Assistance under 38 USC, Chapter 35. All of the various DIC rates are set out in Adjudication Manual M 21-1, Appendix B.

If the veteran was entitled to receive military retired pay and had contributed to the Survivor Benefit Plan (SBP) during his or her lifetime, the surviving spouse generally may not be concurrently paid both DIC and the full amount of SBP, although there are certain exceptions. An eligible surviving spouse may be concurrently paid both DIC and Dependents' Education Assistance under 38 USC, Chapter 35. When DIC has been (or will be) awarded under either 38 USC 1318 or 38 USC 1151, if any beneficiary is awarded any amount from a judicial proceeding, settlement, or compromise by reason of the veteran's death, DIC payments to or for that beneficiary must be withheld until the full amount of such award has been recovered. This does not apply to Social Security or Workman's Compensation benefits, even though they may have been awarded by judicial proceedings.

DIC is payable for a veteran's surviving parent(s) if the veteran's death is service-connected or is compensable under 38 USC 1151. There is no eligibility for DIC for parents under 38 USC 1318. Parents' DIC is income-based—the income limits are spelled out in 38 USC 1315. The income limits are adjusted periodically; the adjusted limits are published in the "Notices" section of the *Federal Register*, and are listed in Adjudication Manual M 21-1, Appendix B. There are different income limits according to whether one or both parents survive, and if both, whether they are married to each other or have or have not remarried. Additional amounts are also payable if one or both parents are in need of aid and attendance. Net worth is not a factor for parents' DIC. If the amount of the total annual benefit payable is less than 4% of the maximum rate, payments will be made semi-annually unless monthly payments are specifically requested. When DIC has been (or will be) awarded under 38 USC 1151, if one or both parents are awarded any amount from a judicial proceeding, settlement, or compromise by reason of the veteran's death, DIC payments to or for the parent must be withheld until the full amount of such award has been recovered.

It is not required that a dependent have been recognized prior to the veteran's death. However, there are time limits for recognition of a surviving spouse for benefits purposes: in general, the surviving spouse must have been married to the veteran for at least one year prior to the veteran's death, or for any length of time if a child was born of the marriage or was born to them before the marriage. In addition, for service-connected deaths only, the marriage may have been for any length of time if it took place within 15 years after the end of the period of service during which the condition which caused or contributed to the veteran's death was incurred or aggravated.

Beginning January 1, 2004, a surviving spouse age 57 or older who is eligible for DIC and other benefits as a surviving spouse will not lose such eligibility because of remarriage. In addition, a surviving spouse whose eligibility was previously terminated because of remarriage, and who was over age 57 at the time of the remarriage, may re-establish eligibility by re-applying before December 16, 2004 (one year after the effective date of the new law).

A claim for DIC by any class of dependent is **ALWAYS** also a claim for any available accrued benefits, as well as being a claim for death pension for a surviving spouse and/or children if DIC is denied, if the service and income requirements are satisfied. In general, if a surviving spouse qualifies for both DIC and death pension, DIC will be awarded as the greater benefit. However, the surviving spouse may elect to receive death pension instead if it is to the spouse's advantage, even though it is a lesser benefit.

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Accrued benefits includes any claim, whether formal, informal, or inferred, for a recurring benefit that was pending and unresolved at the time of the veteran's death, or any recurring benefit that was due but not paid at the time of the veteran's death, such as when a claim was approved but the veteran died before the initial check was issued, or when the initial check was issued but the veteran died before negotiating it. If more than one class of dependents applies, the order of precedence for accrued benefits is (1) surviving spouse; (2) children (in equal shares); (3) parents (in equal shares); and (4) as reimbursement to the person or entity who paid the costs of the veteran's final illness, funeral and burial. Previously, payment of the retroactive benefit was limited to two years prior to the month of death; this restriction was removed for veterans who die on or after December 16, 2003.

DIC

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. During his lifetime the veteran established service connection for a psychiatric condition, rated as 50% disabling. He died by suicide. Is the death service-connected? (Y/N)
2. The surviving spouse's family income from all sources is a factor in determining the DIC monthly rates payable. (T/F)
3. The veteran dies of a service-connected disability. He and his spouse were only married for ten months; however, the spouse was six months pregnant when he died. When is the spouse eligible for DIC?
4. The remarriage of a deceased veteran's widowed mother is an automatic bar to further payment of parents' DIC. (T/F)
5. The veteran was permanently retired from service for disability because of a heart condition. The veteran filed a disability claim with VA, which assigned a rating of 100% from the date of retirement from service. Six years after leaving service, he is killed in an automobile accident. Is the surviving spouse eligible for DIC? (Y/N)
6. Deceased veteran's mother has applied for DIC. She reports income from Social Security only. She also reports owning a parcel of land (not her residence) valued at \$50,000, but states she does not receive any income from the property. Will this affect her eligibility to DIC? (Y/N)
7. Vietnam veteran did not file a claim for disability during his lifetime. He died three months ago, from prostate cancer, for which he was treated at a VA medical facility. Physician's notes in 1997 report the veteran as saying that he felt his cancer was "somehow related to Agent Orange from Vietnam, and he should see if VA would give him any benefits for it." The surviving spouse has submitted a VA Form 21-534.
 - a. Is/was the death service-connected? (Y/N)
 - b. Are there any accrued benefits payable? (Y/N)

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8. The veteran's highest pay grade on active duty was brigadier general. He died in 1998, from service-connected causes. He was rated 100% for ten years prior to death. What regulation determines the DIC rate for the surviving spouse?
9. If a surviving spouse who was previously eligible for DIC remarries and then the remarriage is terminated, can DIC benefits be reinstated? (Y/N)

TRAINING MODULE 7

STUDY PLAN

Death Pension

Objective:

To learn how to assist a claimant to submit a claim for death pension, and to become familiar with the requirements for such claims.

References:

Title 38, U.S. Code, Chapter 15.

38 Code of Federal Regulations, Part 3.

Adjudication Manual M21-1, Part IV; Appendix B.

VA Pamphlet 80-03-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn the requirements for death pension claims. Pay special attention to the income information in the application, as that will be a major portion of the development of the claim.

Summary:

Death pension is an income supplement program for a low-income surviving spouse and/or children of a veteran. The basic requirements for death pension are: wartime service, income and net worth within specified limits, and Dependency and Indemnity Compensation (DIC) is not payable.

VA currently maintains three death pension programs:

“Old law pension,” also known as “protected pension”;

“Section 306 pension,” also known as “86-211 pension”; and

“Improved pension,” which is the current pension program.

Improved pension began on January 1, 1979. All persons who were in receipt of pension under either of the prior pension laws, or who had a pension claim pending on that date, are protected under those laws for as long as they continue to meet the income and net worth limits of their

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program. If the pension award is terminated for any reason, the claimant may only reopen the claim under the current (improved) pension program. In addition, since the claimant's status is in effect frozen, he or she may not claim additional pension because of being housebound or being in need of regular aid and attendance, unless he or she elects improved pension.

Qualifying wartime service for pension purposes means that the veteran served on active duty for at least 90 consecutive days, at least one day of which was during a wartime period; or if less than 90 days, was discharged because of disability for which service connection could be established without resort to any presumptive provisions of the law; or had a disability for which service connection could be established which would have warranted a discharge for disability; or had two or more separate periods of active service for an aggregate of 90 days or more during more than one period of war. For veterans whose wartime service was Gulf War Era, minimum active service requirements (24 consecutive months or the full period for which called to active duty, whichever is less) apply: the veteran must meet either the minimum active service requirement or the general qualifying service requirement above, whichever is greater.

In addition to the above, service requirements for death pension will be met regardless of the length of the veteran's service if at the time of death the veteran was receiving, or was entitled to receive, compensation or retired pay for a service-connected disability incurred or aggravated during a wartime period. Finally, if a veteran dies while on active duty under circumstances precluding the payment of service-connected benefits (e.g, the death was not in line of duty, or was the result of willful misconduct), death pension may be payable to the surviving spouse and/or children provided the veteran had served honorably for at least two years, any part of which was during a wartime period.

Income and net worth limits for improved pension are spelled out in 38 USC 1541, 1542, and 1543. The income limits are adjusted periodically. The adjusted limits are published in the "Notices" section of the *Federal Register* and are listed in Adjudication Manual M21-1, Appendix B. All of the surviving spouse's and/or children's income from all sources is counted unless specifically excluded. Higher income limits apply if the surviving spouse has children in custody; however, the children's incomes are also counted, as well. In addition, higher income limits also apply if the surviving spouse is housebound or in need of regular aid and attendance.

A child beyond age 18 who was in the custody of an eligible surviving spouse before reaching age 18 will remain on the spouse's award as an additional dependent if the child is attending school (up to age 23) or is determined to be permanently incapable of self-support (helpless). In this circumstance, the child has no independent entitlement to pension, even if he or she is living elsewhere while attending school. A child not in the custody of the surviving spouse has separate entitlement, and that child's income and net worth are counted separately from the surviving spouse and any children in the spouse's custody. If there is no eligible surviving spouse, the income for each child is counted according to the formulas set out in 38 CFR § 3.24, and payment made as appropriate to or for each eligible child.

Pension is not payable to or for a surviving spouse and/or a dependent child if the spouse's or child's net worth is of such size that it would be reasonable for it to be consumed for the maintenance of that beneficiary. This is determined on a case-by-case basis, taking into account factors

Death Pension

such as the nature, source(s), and amount(s) of income and assets; the nature and amount(s) of debts and expenses; the number and age(s) of any children; anticipated educational expenses for such children; the spouse's and/or children's state of health; and the anticipated life expectancy of the surviving spouse and/or children (where appropriate). In general, net worth is not a factor for consideration unless it is greater than \$80,000.

To determine the actual rate(s) payable, the surviving spouse's and/or children's total annual countable family income (after exclusions and deductions) is subtracted from the applicable income limit and the difference divided into twelve equal payments. If the total annual amount payable would be less than 4% of the maximum annual rate, payments may be made quarterly, semi-annually, or even annually (depending on the amount payable), unless the claimant specifically requests monthly payments.

It is not required that a dependent have been recognized prior to the veteran's death. However, there are time limits for recognition of a surviving spouse for benefits purposes: in general, the surviving spouse must have been married to the veteran for at least one year prior to the veteran's death, or for any length of time if a child was born of the marriage or was born to them before the marriage. For death pension, the surviving spouse will also qualify regardless of the length of the marriage, if the marriage took place prior to the delimiting date for the particular wartime period as specified in 38 CFR § 3.54(a).

A claim for death pension by any class of dependent is **ALWAYS** a claim for DIC also, as well as a claim for any available accrued benefits. In general, if a surviving spouse qualifies for both DIC and death pension, DIC will be awarded as the greater benefit. However, the surviving spouse may elect to receive death pension instead if it is to the spouse's advantage, even though it is a lesser benefit.

Accrued benefits includes any claim (whether formal, informal, or inferred) for a recurring benefit that was pending and unresolved at the time of the veteran's death, or any recurring benefit that was due but not paid at the time of the veteran's death, such as when a claim was approved but the veteran died before the initial check was issued, or when the initial check was issued but the veteran died before negotiating it. If more than one class of dependents applies, the order of precedence for accrued benefits is (1) surviving spouse; (2) children (in equal shares); (3) parents (in equal shares); and (4) as reimbursement to the person or entity who paid the costs of the veteran's final illness, funeral and burial. Previously, payment of the retroactive benefit was limited to two years prior to the month of death; this restriction was removed for veterans who die on or after December 16, 2003.

Death Pension

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. The surviving spouse and two children have countable income for VA purposes of \$9,150. Their maximum annual (improved) pension rate is \$9,202. How would they be paid?
 - a. Monthly
 - b. Quarterly
 - c. Semiannually
 - d. Annually
2. The veteran served from August 7, 1962 to August 6, 1964. He was married on May 7, 1985, and was killed in a traffic accident on February 20, 1986. No children resulted from the marriage. The surviving spouse is now applying for VA death pension. She reports no income except for General Assistance. Are eligibility requirements for death pension met?
 - a. Yes
 - b. No—Veteran has no wartime service.
 - c. No—Surviving spouse was married to veteran less than one year when veteran died.
 - d. No, for both of the above reasons.
3. There is no eligible surviving spouse. There are two dependent children, ages 15 and 19. The 19-year old is attending college, and has earned income of approximately \$4,200 per year, but no unearned income from interest or other sources. The 15-year old has no income from any source. Are both children within the income limits for pension?
(Y/N)
4. Surviving spouse is receiving pension under Public Law 86-211. Information is received that she has been placed into a nursing home because of inability to care for herself. Is she entitled to additional pension because of need for regular aid and attendance?
 - a. Yes—Nursing home care always raises a presumption of need for aid and attendance.
 - b. No—86-211 pension is frozen at its present level, and may not be increased for any reason.
 - c. Yes—but only if she elects to change to improved pension.

Death Pension

5. There is no eligible surviving spouse. There are two minor children, both in the custody of the same parent. One child has income beyond the maximum annual pension rate, and is not eligible for VA pension. Does this affect the other child's entitlement? (Y/N)
6. The surviving spouse of a wartime veteran is also a veteran and is in receipt of VA pension. She must now elect whether to receive improved pension as a veteran or as the survivor of a veteran. (T/F)
7. A child who is included on the award of a surviving spouse receives property which causes the child's own net worth to become excessive. What is the effect on the spouse's pension award?
 - a. So long as the award remains in a running status, there is no effect.
 - b. The child must always be removed from the award.
 - c. The child is removed from the award, unless doing so results in the surviving spouse receiving a greater monthly rate without the child than with it; in that event, no action is taken.
 - d. The child's net worth is added to the surviving spouse's net worth, and the entire award is terminated.
8. A surviving spouse has income, including Social Security benefits, that makes her income for VA purposes just within the maximum annual pension rate. There is a cost-of-living increase in Social Security rates that raises her income for VA purposes over the maximum for the year. There is no change in any other income amount. Does this cause the surviving spouse to lose entitlement to VA pension? (Y/N)

TRAINING MODULE 8

STUDY PLAN

Eligibility Verification Reports (EVR); Deductible Expenses

Objective:

To learn the requirements for proper periodic reporting of income and expenses to maintain continued eligibility for VA pension or parents' DIC, and which expenses may be deducted from a claimant's income for VA purposes.

References:

Title 38, U.S. Code, Chapters 13 and 15.

38 Code of Federal Regulations §§ 3.3–3.277; 3.652–3.661.

Adjudication Manual M21-1, Part IV, Chapters 16 and 29; Appendix B.

Instructions:

Study the assigned reference materials for an understanding of how to assist and advise claimants as to the effect of their various income and expenses on their VA pension awards. Learn which deductions are likely to require further documentation.

Summary:

1. EVRs:

Department of Veterans Affairs (VA) pension for a veteran, a surviving spouse, or a child is an income-based benefit, as is Dependency and Indemnity Compensation (DIC) for the veteran's dependent parents. This means that claimants must show that they meet prescribed income limits both to establish initial eligibility to payment and for continued eligibility to payment. This is generally first accomplished by the income and net worth information portions of the initial applications (VA Forms 21-526, 21-527, 21-534, or 21-535, as applicable). For the purpose of establishing ongoing eligibility, an Eligibility Verification Report (EVR) is sent.

Law and regulations require that as a condition of continuing pension, each person in receipt of pension must provide such information as is necessary to determine their annual income and net worth, as well as for their dependents, as applicable. This basically means that each claimant is sent an EVR each year, generally at the end of the calendar year. The information requested on an individual EVR is geared to the particular program for that claimant, and will be discussed in more detail below.

EVRs; Deductible Expenses

Notwithstanding the general requirement, not all claimants will be sent an EVR each year. Persons in receipt of old-law (protected) pension or Section 306 pension will not routinely be sent an EVR, unless there is some indication of a significant change in that person's income or dependency status and the information is needed to determine continued eligibility to payment under that program. Persons in receipt of improved pension or parents' DIC may not be sent an EVR if they consistently report no income from any source (and there is no other information to the contrary), or if their only income is from Social Security or other government source which may be verified by computer match.

As noted above, the information requested on an EVR is specific to that claimant's program. All EVRs ask for addresses and Social Security numbers of claimants and dependents, also marital and dependent status (this information may be pre-printed). All EVRs ask for gross monthly amounts of recurring income (such as Social Security) and annual amounts of other or non-recurring income, both received during the current year and expected during the coming year. All EVRs also ask if there is any change in the income received or expected, either sources or amounts (other than cost of living increases). All EVRs except for children receiving death pension ask if the veteran or beneficiary is a patient in a nursing home (quite often, this will be the first indication that the veteran or beneficiary might be entitled to a higher rate because of need for aid and attendance). Section 306 pension and improved pension EVRs also ask for net worth information. Finally, EVRs for Section 306 pension and parents' DIC provide space for listing family medical expenses paid during the current year.

Since the information on the EVR is required as a condition of continued eligibility for payment, there are strict time limits for returning the reports. The claimant is warned when the EVR is mailed that the report must be returned by a specified date or payments will be suspended. A follow-up reminder may be sent as a due process notice, reminding the claimant of the deadline for returning the EVR to avoid interruption of payments and possible overpayment. If there is still no response, the award is terminated without further notice, effective the end of the current calendar year for old-law and Section 306 pension cases, and effective the beginning of the current calendar year (or the beginning date of the award, whichever is later) for improved pension and parents' DIC. If an award is terminated for failure to return the EVR, it may be resumed if evidence of entitlement is received within one year after the year for which the income and net worth (if applicable) was to be reported. If the evidence is received after that time limit, it is considered to be a new or reopened claim for payment purposes. Evidence to clear an overpayment resulting from failure to return an EVR may be submitted at any time, however.

Beginning in late 2001 and scheduled for completion by the end of 2003, VA is consolidating and centralizing all pension and parents' DIC operations into three Pension Maintenance Centers (PMC). The address and phone number of the Center having jurisdiction for California is:

Department of Veterans Affairs Regional Office
Pension Maintenance Center (335/21P)
P. O. Box 11000
St. Paul, MN 55111-0000
Telephone (toll-free): 1-877-294-6380
Fax: 1-612-970-5217 or 1-612-970-5218

EVRs; Deductible Expenses

The PMCs will handle operations, including the mailing and processing of EVRs, for all improved disability and death pension cases and all parents' DIC cases. After the Regional Office having jurisdiction for the claimant's address has made the initial (or reopened) determination of eligibility and entitlement, resolved any service connection and/or appeal issues, and made the initial associated awards, the claims files for improved disability and death pension and parents' DIC recipients will be physically transferred to the appropriate PMC.

Most, but not all, EVRs will be issued from now on by the PMC; some will still be sent out by the Regional Office on certain claims. ***It is extremely important that careful attention be paid to the return address on the EVR***—if an EVR issued by the PMC is returned to the Regional Office instead, the automatic control for its return set by the PMC will not be cleared and the beneficiary's payments will be interrupted. In situations where an EVR has been issued by the PMC and there is not now sufficient time remaining to return it by mail before the expiration of the control date, the PMC will accept a fax copy of the EVR provided that the original EVR is then mailed to the PMC as a confirming copy.

2. Deductible Expenses:

As stated elsewhere, income from all sources is considered for all of the pension programs and for parents' DIC, unless it is specifically excluded. However, certain expenses may be deducted from income for VA purposes (IVAP), either to establish that income continues to meet applicable limits (for old-law and Section 306 pension), or to establish entitlement to a greater rate of payment (for improved pension and parents' DIC).

Old-law pension: If the veteran received benefits for permanent and total disability from any source including Social Security Administration, Office of Federal Employees Compensation, Railroad Retirement Board, state workman's compensation, commercial insurance, etc., then unreimbursed medical expenses paid each year which are related to the disability for which the veteran was retired may be allowed as continuing expenses to keep income within limits. Otherwise, deductible expenses are not a factor for old-law pension.

Section 306 pension: Unreimbursed medical expenses which exceed 5% of the total reported and countable family income may be deducted from the income for VA purposes (IVAP); this will not increase the pension rate payable, but may be used to keep the IVAP within the specified limits. If the space provided on the EVR is not sufficient for reporting such expenses, VA Form 21-8416, *Medical Expense Report*, should be completed. In addition, a deduction may be allowed for the amounts actually paid by a surviving spouse or child for the last illness, burial and just debts of the deceased veteran, or the amounts actually paid by a veteran, surviving spouse or child for the expenses of the last illness or burial of the veteran's deceased spouse or child. Final expenses are deducted from IVAP on a dollar-for-dollar basis with no deductible, and are applied against the IVAP for the year(s) the expenses are actually paid by the beneficiary. Again, these will not increase the pension rates payable, but will only keep the IVAP within limits for the year(s) involved.

EVRs; Deductible Expenses

Improved pension: The theory is that at any given time the claimant's income for VA purposes (IVAP) plus the rate of VA pension will establish a given level of income, the maximum annual pension rate (MAPR). To keep the program closer to the theory, certain expenses paid by a beneficiary are considered in determining the beneficiary's IVAP. Most deductible expenses are deducted from the net countable income, although some expenses may only be deducted from specific income. Unreimbursed out-of-pocket unusual medical expenses, defined as exceeding 5% of the applicable MAPR, may be used to reduce a beneficiary's IVAP for the year they are actually paid. These expenses may be for the veteran or surviving spouse and any dependents, or for a relative who is not a dependent but who is a member of the beneficiary's household.

Health insurance and/or Medicare premiums are allowable expenses; other medical expenses are considered on a case-by-case basis. Although most medical expenses are deducted from the IVAP retroactively for the year they are paid, certain expenses may be allowed prospectively and on an ongoing basis, such as the costs of nursing home care. A deduction may also be allowed for the unreimbursed final expenses of the veteran, spouse or child which have been actually paid. Final expenses include the expenses of the last illness and burial and, for the veteran only, just debts. VA Form 21-8416, *Medical Expense Report*, should be completed for reporting this kind of expenses.

A deduction may also be allowed for unreimbursed educational expenses of a veteran or surviving spouse, and with certain restrictions, a child. These include amounts paid for tuition, fees, books and necessary supplies. Transportation expenses related to school attendance may be deducted if the veteran or surviving spouse has been determined to be housebound or in need of aid and attendance, and such expenses exceed the amounts which would reasonably be incurred by a nondisabled person. For a child, educational expenses may be deducted only if the child has earned income which exceeds the amount excluded under 38 CFR § 3.272(j)(2), that is, the minimum earned income which would require that an income tax return be filed. The child must be taking a post-high school educational or vocational program; the deductible expenses include amounts paid for tuition, fees, books, and necessary supplies.

If a beneficiary has income from rental property or a business, the amounts of reasonable operating expenses, including the costs of supplies and interest payments on the property, but not depreciation, may be deducted from the gross income from that source to determine the net countable income. The value of the rental property or business is considered to be net worth.

If a beneficiary is awarded benefits (other than VA benefits) based on permanent and total disability or death, a one-time deduction from that award may be taken for the legal, medical, and other expenses incurred in securing the award. This includes awards from Social Security Administration, Office of Federal Employees Compensation, Railroad Retirement Board, state workman's compensation, commercial insurance, and private lawsuits or settlements. After this one-time initial deduction, related ongoing medical expenses are deductible only as described above.

EVRs; Deductible Expenses

Parents' DIC: Unreimbursed family medical expenses which exceed 5% of the total reported and countable family income may be deducted from the income for VA purposes (IVAP). Persons whose medical expenses are deductible include the parent; the parent's spouse (whether or not this is the veteran's other parent); minor or disabled children of the parent or spouse who are actual or constructive members of the parent's household; and parent(s) of the parent or spouse, who are actual or constructive members of the parent's household. If the space provided on the EVR is not sufficient for reporting such expenses, VA Form 21-8416, *Medical Expense Report*, should be completed.

The rules for determining the net income from a rental or other business are similar, but not identical, to the rules for improved pension. Since net worth is not a factor for parents' DIC, the value of the rental property or business is not considered. Similarly, if a parent or parent's spouse is awarded benefits (other than VA benefits) based on permanent and total disability or death, a one-time deduction from that award may be taken for the legal, medical, and other expenses incurred in securing the award. This includes awards from Social Security Administration, Office of Federal Employees Compensation, Railroad Retirement Board, state workman's compensation, commercial insurance, and private lawsuits or settlements. After this one-time initial deduction, related ongoing medical expenses are deductible only as described above.

EVRs; Deductible Expenses

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. EVRs are not required from all pension recipients so long as there are no changes in their income. (T/F)
2. If a claimant in receipt of improved pension for two or more years fails to return the EVR, what is the date from which payment is stopped?
 - a. End of the current month
 - b. End of the current year
 - c. First day of the year for which the income received information is requested.
 - d. Beginning date of the award
3. For improved pension, unreimbursed medical expenses paid may be deducted from income for VA purposes if they exceed:
 - a. 5% of the claimant's gross income
 - b. 5% of the claimant's maximum annual pension rate (MAPR)
 - c. 10% of the claimant's net income for VA purposes
 - d. \$1,000 per person.
4. If a claimant's pension award is terminated and an overpayment is created because of failure to return the EVR, how long does the claimant have to provide income information to clear the overpayment?
 - a. 30 days from the date of notice of overpayment
 - b. 60 days from the date of notice of overpayment
 - c. One year from the date of notice of overpayment
 - d. There is no time limit for submitting evidence to clear an overpayment
5. Gambling losses for the last two years may be deducted from the current year's winnings for the purpose of reducing the claimant's income for VA purposes. (T/F)

EVRs; Deductible Expenses

6. The veteran's dependent child, age 21, is attending college and working part-time. The child's expected earnings for the year are \$10,000. The child has no other income. The cost of tuition, fees and schoolbooks will be \$5,000. How much of the child's earned income can be deducted from the overall family income for VA purposes?
 - a. None—Educational expenses are not deductible and the child's income exceeds the limits. The child may not be counted as a dependent.
 - b. \$5,000—The child's educational expenses are deductible, but the child's earned income is fully countable as family income.
 - c. All—A child's earned income is excluded up to the amount at which a Federal income tax return must be filed. Education expenses may then be deducted from the amount remaining, which in this case would be less than the amount of the school expenses.
7. Return of the EVR is optional if the claimant's current income and net worth are unchanged from last year's. (T/F)
8. Deceased veteran's parents are in receipt of DIC. The veteran's father dies of complications of surgery, and the mother wins a settlement of \$40,000 for wrongful death from the hospital. By the time she pays attorney fees, the costs of obtaining independent medical experts, and other costs arising from the lawsuit, she realizes less than \$1,000 net income from the lawsuit. Can she claim the costs of the lawsuit as a deduction from her income for VA purposes? (Y/N)
9. The step-brother of a surviving spouse in receipt of improved pension is living with her because he is disabled and unable to care for himself. Since he has minimal income of his own, the surviving spouse is helping with his medical bills as best she can. Can the surviving spouse deduct the step-brother's medical expenses that she is paying for him? (Y/N)
10. Which of the following may be not prospectively claimed as ongoing medical expenses for improved pension?
 - a. Medicare Part B premiums
 - b. Cost of care in a nursing home
 - c. Cost of visits to the emergency room
 - d. Any of the above

EVRs; Deductible Expenses

- 11.** Deceased veteran's remarried mother is in receipt of DIC. She and her husband operate a small business. Gross income from the business averages about \$25,000 per year. Last year they lost \$2,500 for the year, and expect they will not make a profit again this year. Can they deduct their operating losses from the business to reduce their income for VA purposes? (Y/N)
- 12.** The veteran and spouse were heavily in debt when he died. He had an outstanding unsecured loan of \$15,000, as well as owing another \$50,000 for the purchase of an automobile. In addition, he incurred more than \$100,000 in hospital bills from being in intensive care for six weeks (with no medical insurance) prior to his death. The costs of his funeral and burial came to over \$10,000. Assuming the surviving spouse does not seek relief in bankruptcy, which of these may not be deducted as final expenses and just debts from the surviving spouse's income for VA purposes?

 - a.** \$15,000 unsecured loan
 - b.** \$50,000 secured loan for automobile
 - c.** \$100,000 or more hospital bill
 - d.** \$10,000 funeral and burial costs

TRAINING MODULE 9

STUDY PLAN

Burial Benefits

Objective:

To learn what benefits are available for the funeral, transportation, and interment of a deceased veteran, and what the requirements are for eligibility to such benefits. To learn the requirements for burial in a National Cemetery and related honors.

References:

Title 38, U.S. Code, Chapters 23 and 24.

38 Code of Federal Regulations §§ 1.10; 1.601–1.633; 3.1600–3.1612.

Adjudication Manual M21-1, Part III, Chapter 13.

VA Pamphlet 80-03-1, *Federal Benefits for Veterans and Dependents*

Instructions:

Study the assigned reference materials to learn how to assist a veteran's survivors to apply for burial and interment allowance, for burial in a National Cemetery, and for the other honors due a veteran at time of death.

Summary:

1. Burial and Plot Allowance:

The Department of Veterans Affairs (VA) will pay a burial allowance on behalf of any deceased veteran who dies as the result of a service-related disability. If the veteran's death is not related to service or a service-connected disability, VA will pay a lesser amount for a veteran who meets any of the following requirements:

- The veteran was in receipt of compensation or pension, or would have been entitled to receive compensation or pension but for receipt of military retired pay;
- At the time of death, the veteran had a claim pending for compensation or pension which would have entitled him or her to payment but for his or her death;
- The veteran served during a wartime period and the body is unclaimed;
- The veteran died while hospitalized by VA or while receiving care at a non-VA facility under VA contract;
- The veteran died while traveling under VA authorization and expense to or from a specified place for examination, treatment, or care; or
- The veteran died while a patient at an approved state nursing home.

Burial benefits

If the death is not service-connected, veterans who first entered service after September 1980 (enlisted) or October 1981 (officers) are subject to the minimum active duty service requirement.

A plot or interment allowance may also be payable for a veteran whose death is not service-connected and who:

- Served during a wartime period and the body is unclaimed; or
- Was in receipt of compensation or pension; or
- Would have been entitled to receive compensation or pension but for receipt of military retired pay; or
- Was discharged from service because of a disability incurred or aggravated in line of duty (whether or not service connection was ever established by VA for that condition); or
- Was properly hospitalized by VA or at VA expense;

and who is not buried in a National Cemetery.

Under certain conditions VA will also pay an allowance for the costs of transporting the veteran's body from the place of death to the place of burial or interment.

If the veteran died on or after September 11, 2001 and the death is service-connected, the burial allowance payable is the total cost of the funeral, burial and transportation or \$2,000, whichever is less. If the death occurred before September 11, 2001, the service-connected burial allowance is \$1,500. If the veteran is buried in a National Cemetery, an additional separate amount is payable for the cost of transporting the veteran's body from the place of death to the nearest National Cemetery having space.

If the veteran's death is not service-connected, the basic burial allowance is \$300. If the veteran meets the requirements for the plot or interment allowance and the death occurred on or after December 1, 2001, the plot allowance is \$300. If the veteran died before December 1, 2001, the plot allowance is \$150. If the veteran is buried in a National Cemetery and was either in receipt of compensation or pension or would have been entitled to receive compensation or pension but for receipt of military retired pay, the cost of transporting the veteran's body to the nearest available National Cemetery is payable. If the veteran dies while hospitalized by VA or at VA expense, or dies while traveling under VA authorization, or dies in an approved state nursing home, the cost of transporting the veteran's body from the place of death to the place of burial or interment is also payable.

If a person who is not a veteran dies while properly hospitalized by VA, the nonservice-connected burial allowance plus the cost of transporting the body to the place of burial or interment is payable.

There is no time limit for filing a service-connected burial claim; or for claiming the allowance for transporting a veteran's body from a VA (or VA-contracted) hospital to the place of burial or interment; or for claiming the allowance for transporting the veteran's body to a National Cemetery for burial. For deaths which are not service-connected, the time limit for submitting a claim for the burial and/or plot allowance is two years after the date of final permanent burial or interment. If the burial allowance could not be paid at the time of the veteran's death because of the character of the veteran's discharge and the discharge is subsequently corrected or upgraded so

Burial benefits

that benefits would now be payable, the claim for burial allowance must be filed within two years from the date of correction of the veteran's discharge.

Burial benefits

The order of precedence of claimant(s) for the burial, plot and transportation allowances is:

1. The funeral director, if any portion of the funeral bill is unpaid;
2. The person or entity from whom the plot was purchased or who provided interment services (if other than the funeral director), if any portion of the bill for such is unpaid;
3. The person whose personal funds were used to pay the expenses of the funeral, transportation, and burial; or
4. The administrator or executor of the veteran's estate or the estate of the person who paid the expenses of the veteran's burial or provided such services.

The application and evidentiary requirements for burial allowance are a completed VA Form 21-530, *Application for Burial Benefits*, signed by the proper claimant and by the person who authorized the services (if not the same person); a statement of account on the billhead (invoice) of the funeral director or cemetery owner, showing the deceased veteran's name, the plot or interment costs, the nature and costs of the services rendered, and the remaining unpaid balance (if any); receipted bills showing by whom payment was made and by whom it was received on behalf of the funeral director and/or cemetery owner; a death certificate or other acceptable proof of death; and proof of the veteran's service, if not already of record. If the veteran was indigent or the body is unclaimed, there must also be a written certification, signed by a responsible official (usually the Public Guardian/Public Administrator) of the state or subdivision where the body is held, that the veteran had no next of kin or other person to claim the body and that the veteran's estate does not have sufficient funds to cover the expenses of funeral and burial.

2. National Cemeteries:

The Department of Veterans Affairs has administered the National Cemetery system since 1973. Persons eligible for burial in a National Cemetery include service members who die on active duty and veterans who meet applicable active duty requirements (veterans who first entered service after September 1980 [enlisted personnel] or October 1981 [officers] are subject to the minimum active duty service provision) and who were discharged under honorable conditions.

Other persons eligible for burial in a National Cemetery include Reservists who are entitled to retired pay based on 20 or more years of creditable service with a Reserve component; Reservists and members of the National Guard who die as the result of disease or injury incurred or aggravated in line of duty during active duty for training or inactive duty training, or who die while being treated for such a disease or injury, or who die while traveling to or from authorized training; and commissioned officers of the National Oceanic and Atmospheric Administration and the U.S. Public Health Service. World War II Merchant Mariners and U.S. citizens who served honorably in the armed forces of an Allied country during a wartime period are also eligible for burial in a National Cemetery, as well as any other persons or classes of persons designated by either the Secretary of Veterans Affairs or the Secretary of the Air Force.

Finally, the spouse or surviving spouse of an eligible person may be buried in a National Cemetery, even if the eligible person is not buried or memorialized in the National Cemetery. The dependent minor children, the unmarried adult children (up to age 23) who are attending

Burial benefits

an approved school, and the unmarried adult disabled children of an eligible person are also eligible for burial in a National Cemetery. Beginning December 16, 2003, remarriage no longer disqualifies a surviving spouse from eligibility for burial in a National Cemetery (previously, the surviving spouse's eligibility could be restored if the remarriage were terminated by death or divorce).

Persons convicted of a capital crime under either federal or state laws may not be buried or memorialized in a National Cemetery. Additionally, for deaths which occur on or after December 6, 2002, such persons also may not be furnished any of the following items: an American flag to drape the veteran's coffin; a Presidential Memorial Certificate; or a memorial headstone or marker for the veteran's grave.

Burial in a National Cemetery includes the gravesite, a headstone or marker, opening and closing of the grave, and perpetual care. Gravesites in a National Cemetery cannot be reserved, although arrangements that were made before VA assumed jurisdiction of the National Cemetery system will continue to be honored. Funeral directors or others making burial arrangements must apply at the time of the eligible person's death. Depending on the cemetery, National Cemeteries may have columbaria or special gravesite sections for cremated remains. Burial services are not conducted on weekends except under the most unusual circumstances.

National Cemeteries do not provide military honors, but will assist with referrals to military units or volunteer groups. If requested by the veteran's family, the Department of Defense will provide a funeral honor guard detail of not less than two members, at least one of whom will be from the veteran's branch of service. The honors ceremony will include, at a minimum, the folding and presentation of the American flag to the family plus the playing of "Taps," either by a bugler or a recording. Military funeral honors are not restricted to services in National Cemeteries.

VA will provide a headstone or grave marker for veterans buried anywhere in the world, and for eligible dependents of veterans buried in National Cemeteries, state veterans' cemeteries, or military post cemeteries (but not private cemeteries). The style and type of marker furnished will depend on the rules of the particular cemetery. Niche markers are also available for identifying cremated remains in a columbarium. The headstone or marker will contain the name of the deceased, the years of birth and death, and (for the veteran) the branch of service. Optionally, the headstone or marker may also be inscribed with the deceased veteran's military grade, rank or rate, complete dates of birth and death, an appropriate religious emblem, and a listing of any awards for valor.

If the burial is in a National Cemetery, a state veterans' cemetery, or a military post cemetery, the headstone or marker is ordered through the cemetery, which will place it on the gravesite. If the burial is in any other cemetery, the headstone or marker must be ordered from VA by completing VA Form 40-1330, *Application for Standard Government Headstone or Marker for Installation in a Private or State Veterans' Cemetery*, and sending it to Memorial Programs Service (403), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. The headstone or marker will be shipped at Government expense; however, VA does not pay the cost of placing it. There is no time limit for ordering a headstone or marker. For veterans who die after December 27, 2001 and who are buried in a private cemetery, VA will furnish an appropriate grave marker even if the grave is already marked with a non-government marker.

Burial benefits

VA will provide an American flag to cover the casket of a veteran or eligible Reservist (only). This may be requested by the funeral director or by the next of kin or next friend of the deceased. VA Form 21-2008, *Application for United States Flag for Burial Purposes*, may be submitted to a VA Regional Office, to the National Cemetery office, or to designated Post Offices.

A Presidential Memorial Certificate, signed by the President and stating the country's gratitude for the veteran's service, may be issued to the families or other loved ones of any honorably discharged deceased veteran. This may be obtained by applying to any VA Regional Office or by mailing a request to National Cemetery Administration (403A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, together with proof of the veteran's honorable discharge from service. There is no longer a specific form required to apply for the Presidential Memorial Certificate, but the former VA Form 23-8055, *Application for Presidential Memorial Certificate*, may continue to be used. There is no time limit for requesting a Presidential Memorial Certificate.

Burial benefits

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. When a death is service-connected, the full amount of the service-connected burial allowance is always payable regardless of the actual cost of the funeral, plot, and transportation to the place of burial.
(T/F)
2. If a veteran dies in a VA hospital from nonservice-connected causes and is buried in a National Cemetery, what, if any, transportation costs are payable?
 - a. Transportation from the place of death to the funeral home, only.
 - b. Transportation from the funeral home to the National Cemetery, only.
 - c. Transportation from the place of death to the National Cemetery.
 - d. None of the above.
3. Assuming other requirements are met, may a veteran whose body is unclaimed be interred in a National Cemetery? (Y/N)
4. What is the time limit for claiming the allowance for transporting a veteran's body from the place of death to the place of interment?
 - a. 60 days
 - b. One year
 - c. Two years
 - d. There is no time limit for claiming transportation costs.
5. May the plot allowance be authorized if the veteran is buried in a State veteran's cemetery? (Y/N)
6. The burial allowance must always be paid to the funeral director, even if all of the costs of the funeral and burial have been paid in full. (T/F)
7. If a veteran's family wishes a headstone or marker different from the type supplied by VA, will VA reimburse the cost of the headstone or marker? (Y/N)

Burial benefits

- 8.** If a U.S. flag is used to cover the casket of a veteran, what is done with the flag upon burial of the casket?
 - a.** It is given to the veteran's next of kin or next friend.
 - b.** It is returned to the funeral director for use for the next funeral of a veteran.
 - c.** It is buried with the casket.
 - d.** It is returned to the Government facility which originally furnished it.

- 9.** If a veteran's dependent, who is not a veteran but who is covered under CHAMPVA, is admitted to a VA medical facility and dies there, are burial benefits payable?
 - a.** The basic nonservice-connected burial and plot allowance is payable.
 - b.** Only the transportation allowance from the place of death to the funeral home is payable.
 - c.** The basic nonservice-connected burial allowance (but not the plot allowance) plus the allowance for transportation from the place of death to the place of burial is payable.
 - d.** No—burial benefits are only for veterans.

- 10.** What is the time limit for claiming a burial allowance?
 - a.** For a service-connected death, there is no time limit for claiming burial allowance.
 - b.** For a nonservice-connected death, the time limit for claiming burial allowance is two years after the date of the veteran's final permanent burial.
 - c.** If the character of the veteran's discharge was a bar to VA benefits at the time of death from nonservice-connected causes, the time limit for claiming burial allowance is two years after the posthumous correction of the character of discharge.
 - d.** All of the above.

TRAINING MODULE 10

STUDY PLAN

VA Medical Care

Objective:

To learn about health and medical care benefits available to veterans and eligible family members, and how to apply for and obtain such benefits.

References:

Title 38, U.S. Code, Chapter 17.

38 Code of Federal Regulations, Part 17.

VA Pamphlet 80-02-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn how to assist veterans, and eligible dependents and survivors, to apply for and obtain necessary medical care and services from VA medical facilities.

Summary:

Under the Veterans Health Administration (VHA), the Department of Veterans Affairs (VA) operates one of the largest health-care delivery systems in the world. The system consists primarily of centralized comprehensive medical centers, most of which are affiliated with university medical schools, complemented and supplemented by an extensive network of outpatient clinics and readjustment counseling centers, as well as some nursing homes and domiciliaries.

In general, VA will provide health care, including medical or other treatment as required, to any honorably discharged veteran. VA will also furnish care to certain persons who received an other than honorable discharge from service, but only for a disability which was incurred in or aggravated by service, in line of duty [38 CFR §§ 3.360, 17.47(a)(2)]. VA medical facilities may furnish health care to certain veterans' dependents covered under CHAMPVA, as well as to military personnel and retirees and their families covered under CHAMPUS/TRICARE. VA will furnish needed care for problems related to spina bifida and certain other birth defects in eligible children of Vietnam veterans. Finally, VA medical facilities will furnish necessary emergency care, including hospital admission where required, on a humanitarian basis for any person regardless of status.

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To obtain medical care, or health care benefits in general, it is necessary to apply for them. This is done by submitting a completed VA Form 10-10, *Application for Medical Benefits*, or 10-10ez, *Application for Health Benefits*, to the nearest VA medical facility. Except in emergency situations, a veteran seeking care for a service-connected condition will generally take precedence over others. In all other cases, the priority of care is as follows:

1. Veterans with service-connected ratings of 50% or more.
2. Veterans with service-connected ratings of 30% or 40%.
3. Veterans with service-connected ratings of 10% or 20%; former prisoners of war; veterans who were awarded the Purple Heart because of wounds or injuries received in combat; veterans who were discharged from service because of service-connected disability; or veterans who have special eligibility under 38 USC 1151.
4. Veterans determined by VA to be catastrophically disabled, or veterans entitled to receive special monthly pension (aid and attendance or housebound).
5. Veterans with no service-connected disabilities and veterans with 0% service-connected ratings, who are determined to be unable to defray the costs of needed care.
6. Veterans entitled to compensation for 0% service-connected disabilities (includes veterans entitled to the 10% rate based on multiple 0% disabilities under 38 CFR § 3.324, veterans entitled to special monthly compensation under 38 USC 1114(k) for loss or loss of use of a creative organ, and those veterans entitled to special monthly compensation under the former 38 USC 1114(q) for arrested tuberculosis); veterans who served during the Mexican Border Period and/or World War I; or veterans seeking care solely for conditions claimed to be associated with exposure to ionizing radiation or toxic substances during service (including service in the Persian Gulf area).
7. Veterans with no service-connected disabilities and veterans with 0% service-connected ratings whose family income and assets meet statutory thresholds for “low-income,” and who agree to make specified co-payments.
8. Veterans with no service-connected disabilities and veterans with 0% service-connected ratings whose income and net worth are more than the above thresholds, and who agree to make specified co-payments.

To allow for planning and allocation of resources, all veterans applying to a VA medical facility for health care are required to enroll with VA, unless the veteran was discharged from service less than a year ago because of service-connected disability, even though VA has not yet rated it; or has a service-connected disability rated 50% or more; or is seeking treatment only for a service-connected disability. On enrollment, the veteran will be assigned to one of the above priority groups, and is eligible for all needed inpatient and outpatient medical, surgical, and psychiatric services, including, but not limited to, drugs and pharmaceutical supplies, home healthcare, and hospice care. The veteran may choose a preferred facility for receiving primary care. The enrollment is for one year, and is automatically renewed each year unless the veteran requests that it not be renewed.

In general, a veteran must obtain health care from a VA medical facility, if reasonably available (usually considered as being within 30 miles of the veteran’s residence). If the VA medical facility is unable to provide a needed service in a particular case VA may either contract with local facilities to provide the service or send the veteran (at VA expense) to the nearest VA medical

VA Medical Care

facility that can provide the service. If no VA medical facility is reasonably available, VA may authorize the veteran to obtain specified care locally on a fee basis. If the veteran's service-connected disability is rated 50% or more, fee basis care may be authorized for any condition. If the service-connected rating is less than 50%, fee basis care may be authorized only for service-connected condition(s). Fee basis care must be authorized in advance in all cases.

If a veteran should require emergency treatment or admission to a non-VA medical facility for a service-connected condition, VA will reimburse the charges incurred provided the VA medical facility of jurisdiction is notified within 72 hours of such treatment or admission. Beginning May 29, 2000, VA will also reimburse the cost of emergency treatment at a non-VA medical facility for a nonservice-connected condition, provided that the veteran is currently enrolled in the VA Health Care system; that the condition in question has been treated (by VA) within the previous two years; and that the veteran is not covered under any other health services plan. Otherwise, VA will not reimburse unauthorized medical expenses (emergency or otherwise) for a nonservice-connected condition unless the veteran is permanently totally disabled from service-connected disabilities (whether rated 100% or by reason of individual unemployability), or is enrolled in a program of Vocational Rehabilitation and it is medically determined that the treatment is required for the veteran to continue training. If VA agrees to reimbursement of unauthorized charges and the veteran requires prolonged hospitalization, VA may require transfer to a VA medical facility as soon as the veteran's condition permits.

VA will pay travel pay at common carrier rates for certain veterans to travel to and from a VA medical facility for the purpose of examination and/or treatment (including hospitalization) with a \$3 deductible per trip, up to a maximum deductible of \$18 per calendar month. Persons who qualify for travel pay include veterans seeking examination and/or treatment specifically of a service-connected condition, regardless of its percentage; veterans who have a service-connected rating of 30% or more overall, for any condition; veterans in receipt of VA pension, or whose income is below the statutory limits for VA pension and who are unable to defray the costs of travel; veterans who have been scheduled for a Compensation and Pension (C & P) or other special purpose examination; and veterans who require a specialized mode of transportation such as an ambulance, wheelchair van, etc., provided that a physician has determined that the veteran requires the specialized mode of transport, that the veteran is unable to defray the cost of the specialized transport, and that the travel has been authorized in advance. Veterans who must travel to a C & P examination and veterans who require special modes of transportation are exempted from the deductible requirement; in other cases, the deductible may be waived on a showing that it would cause the veteran undue hardship. For veterans requiring specialized modes of transport, travel pay may also include the costs of meals and lodging en route, as well as the cost of an attendant. Prior travel authorization is required except in the event of a medical emergency or other circumstance where a delay would be hazardous.

Limited outpatient dental services are available at VA medical facilities. Veterans who are rated totally disabled from service-connected conditions, former prisoners of war who were held captive for 90 days or longer, and veterans who have a service-connected dental disability of compensable severity are entitled to any and all necessary dental care. Veterans who are participating in a program of Vocational Rehabilitation are entitled to any dental treatment necessary for them to continue in their program. Veterans who suffered dental trauma in service,

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whether in combat or otherwise, and former prisoners of war who were held captive for less than 90 days are entitled to any necessary treatment for the specific teeth for which noncompensable service connection is established. Other veterans with noncompensable service-connected dental disabilities are entitled to whatever treatment may be necessary for the one-time correction of the service-connected dental condition, provided they meet the length of service requirements and make application to the Dental Clinic within 90 days after discharge from service. Veterans being treated for other conditions, whether as an inpatient or outpatient, may receive dental care which is medically necessary; that is, for a dental condition which is complicating the medical condition currently under treatment.

All VA medical facilities have special programs and services for female veterans. In addition to regular generic medical services, there is also a full array of gender-specific services for female veterans, such as gynecological (breast and pelvic) examinations and reproductive health care counseling. Preventive health care for female veterans includes contraceptive services, PAP smears, mammography, and menopause management. Counseling and therapy are also available for women who suffered sexual trauma during service. Some, but not all, VA medical facilities may offer maternity services. If a particular VA facility does not have a certain service available, it will either contract the service out or provide a community referral. There is a Women's Program Coordinator at each VA medical facility.

VHA provides extensive specialized rehabilitation services for severely disabled veterans. The Western Blind Rehabilitation Center is located at the VA Medical Center at Palo Alto, and provides extensive rehabilitation services for blind veterans throughout much of the state of California. There is another Blind Rehabilitation Center at the VA Medical Center in Phoenix, Arizona. Rehabilitative services from these centers are provided on an inpatient and outpatient basis, as well as through community-based organizations, for qualified blind veterans regardless of whether the blindness is service-connected. Members of the Visually Impaired Services Team (VIST) are assigned to many VA outpatient clinics for outreach purposes, and there are also VIS coordinators at all VA medical facilities. For veterans with diseases or injuries of the central nervous system, the VA Medical Centers at Long Beach and Palo Alto provide special rehabilitative services by the Brain Injury Unit and the Spinal Cord Injury Unit.

For veterans who are not acutely ill and do not require hospitalization but who require medium-to-long term custodial and/or skilled nursing care, VA has Nursing Home Care Units associated with some medical centers. Admission is on a space-available basis, with first priority given to veterans whose service-connected disability requires this level of care. Other veterans are considered in order of their priority groups. If a veteran requires nursing home level of care and space is not available in a VA Nursing Home Care Unit, VA may place the veteran in a civilian nursing home under VA contract, as a VA beneficiary. A VA nursing home contract normally will not be for longer than six months, unless the condition requiring nursing home care is service-connected, or the veteran was hospitalized for a service-connected disability and then transferred to the nursing home. Under certain limited circumstances a veteran may be admitted directly to a civilian nursing home as a VA beneficiary.

VA may provide domiciliary care for veterans who are able to perform basic self-care tasks and require only low-level nursing, rehabilitation, and/or custodial services. Eligibility for admission to a domiciliary is income-based: the veteran's annual income may not be more than the maximum VA pension rate, or the veteran must be shown to have no adequate means of support. Only some VA Medical Centers offer domiciliary care; there are also VA domiciliaries which are not associated with a VA medical facility.

VA Medical Care

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. Access to VA medical facilities is strictly limited to only veterans.
(T/F)
2. With certain exceptions, veterans who apply for health care from VA will be assigned to one of _____ groups to determine priority of routine care.
 - a. Four (4)
 - b. Six (6)
 - c. Eight (8)
 - d. Ten (10)
3. Which priority group is required to make a co-payment in order to receive health care from a VA medical facility?
4. If a VA medical facility is not reasonably available, veterans with service-connected disabilities may request to be treated by their own private physicians, at VA expense.
(T/F)
5. If a veteran requires emergency hospitalization at a non-VA facility for a service-connected condition, VA will reimburse the unauthorized costs of hospitalization, provided that:
 - a. VA is notified within 72 hours of admission.
 - b. The condition is rated at least 50% disabling.
 - c. The veteran certifies that he or she is unable to defray the cost of the care.
 - d. All of the above.

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- 6.** VA will reimburse the cost of unauthorized medical expenses for a nonservice-connected condition provided:
 - a.** It was a medical emergency and the veteran is enrolled in the VA Health Care system.
 - b.** The veteran is rated totally disabled by service-connected disability.
 - c.** The veteran is training under Vocational Rehabilitation and the treatment is required for the veteran to be able to continue training.
 - d.** Any of the above.

- 7.** VA will authorize travel pay for certain veterans who must travel to a VA medical facility for examination or treatment. This travel pay is subject to a deductible provision, except for those veterans who:
 - a.** Are required to report for a Compensation & Pension examination.
 - b.** Are rated 30% or more for the service-connected condition being treated.
 - c.** Are in receipt of VA nonservice-connected disability pension.
 - d.** Are over age 65.

- 8.** A former Prisoner of War is entitled to any and all necessary dental care by VA or at VA expense, regardless of the length of captivity.
(T/F)

- 9.** Eligibility for blind rehabilitation services requires that the veteran's loss of vision be due to service-connected causes.
(T/F)

- 10.** If VA places a veteran into a civilian nursing home under contract as a VA beneficiary, the usual length of the contract is
 - a.** 90 days.
 - b.** Six (6) months.
 - c.** One year.
 - d.** There is no time limit for the contract.

TRAINING MODULE 11

STUDY PLAN

Loan Guaranty

Objective:

To learn how an eligible veteran or other eligible person may obtain or guarantee a loan to buy, build, or improve a home under VA's Loan Guaranty program.

References:

Title 38, U.S. Code, Chapter 37.

38 Code of Federal Regulations, Part 36.

VA Pamphlets:

26-4, *VA-Guaranteed Home Loans for Veterans*

26-5, *Pointers for the Veteran-Homeowner*

26-6, *To the Home-Buying Veteran: A Guide for Veterans Planning to Buy or Build Homes with a VA Loan*

26-69-1, *Questions and Answers on Specially Adapted Housing and Special Housing Adaptations for Veterans*

26-71-1, *Questions and Answers on Manufactured Home Loans for Veterans*

26-91-1, *VA Home Loans: A Quick Guide for Homebuyers & Real Estate Professionals*

26-93-1, *VA Direct Home Loans for Native American Veterans Living on Trust Lands*

80-03-1, *Federal Benefits for Veterans and Dependents.*

Instructions:

Study the assigned reference materials to learn how to assist veterans or other eligible persons file for benefits under the Loan Guaranty program.

Summary:

The Department of Veterans Affairs (VA) will guarantee loans to be used for the following purposes:

- To buy a home (including a townhouse or a condominium unit in a VA-approved project);
- To build a new home;
- To repair, alter, or improve an existing home;
- To refinance an existing loan (including an existing VA loan to reduce the interest rate);
- To buy a manufactured (mobile) home and/or lot;
- To buy and improve a lot on which to place an already-owned and -occupied mobile home;
- To refinance a mobile home loan in order to acquire a lot.

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The veteran or eligible person must actually live on the property for which the VA-guaranteed loan is made. VA-guaranteed loans are not available to buy a farm (unless the farm includes a farm house which will be personally occupied by the veteran or eligible person as their home), or to buy a business. Financing for these may be obtained through the Farmers Home Administration and the Small Business Administration, respectively, both of which give preference to veterans. Also, VA-guaranteed loans are not available outside U.S. territorial limits.

Except as noted below, VA does not actually make the loan; rather, VA guarantees a percentage of the loan value, thereby reducing the risk to the lender. The actual amount of the guarantee will vary depending on the total amount of the loan, the value of the property involved, and whether the veteran or eligible person has previously used any of his or her loan guaranty entitlement. The amount of the loan may not exceed the reasonable value of the property, and the amount of the guarantee normally may not exceed one-half of the loan amount. The maximum home loan guaranty is \$60,000. However, if both spouses are veterans and each has loan guaranty entitlement available, their entitlements may be combined to obtain a greater guaranty amount.

Under certain circumstances VA will make direct loans to eligible Native American veterans to buy, build, or improve a home on Native American trust (tribal) lands. The maximum loan in this case is \$80,000 or the actual cost of the home, whichever is less. VA may also make direct loans to eligible disabled veterans who qualify for the Special Adapted Housing grant, to help cover the difference between the amount of the grant and the cost of the housing unit. In this case, the maximum loan is \$33,000. In addition, VA may also make direct loans to veterans who live in rural areas or small towns far from large metropolitan areas, upon a showing that there are no available lenders except at exorbitant interest rates and the veteran is unable to obtain financing from any other sources. Again, the maximum loan is \$33,000.

The veteran or eligible person must meet all of the credit-worthiness and the other usual and customary requirements of the lending institution, as well as making the down payment (if any) and paying the normal and reasonable closing costs. There is also a funding fee, which may be either paid separately or included in the loan; this fee may vary, according to the amount of down payment made. If the veteran is in receipt of service-connected disability compensation or would be entitled to compensation but for receipt of military retired pay, the funding fee is waived. Interest rates are negotiable.

The length of the mortgage and repayment plan depend on the specifics of the loan, including the amount and purpose and the particular lender. The maximum allowable length of the loan term is 30 years and 32 days. The repayment plan may be a fixed-payment, a graduated payment, a "buy-down," or a growing equity mortgage plan.

If the loan is to build a new home, VA will require the builder to offer a warranty against construction defects; however, VA has no enforcement authority in such cases except to suspend the builder from future participation in the Loan Guaranty program.

For qualifying service, veterans who served during World War II, the Korean Conflict, or the Vietnam era must have served at least 90 days of continuous active duty and have been discharged under honorable conditions. Veterans whose service was entirely during peacetime periods [from July 26, 1947 to June 26, 1950; from February 1, 1955 to August 4, 1964; or from

Loan Guaranty

May 8, 1975 to September 7, 1980 (enlisted) or October 16, 1981 (officers)] must have served at least 181 days of continuous active duty and have been discharged under honorable conditions. In each of these cases, if the veteran served less than the specified minimum time but was discharged for service-connected disability, the veteran may still be eligible for VA Loan Guaranty benefits.

Veterans whose service began after September 7, 1980 (enlisted) or after October 16, 1981 (officers) and ended before August 1, 1990 must have completed 24 months of continuous active duty or the full period (at least 181 days) for which called or ordered to active duty, and have been discharged under honorable conditions. Eligibility may still exist if the veteran served less than the specified length of time, but was discharged because of a service-connected disability; or served at least 20 months and was discharged for the convenience of the Government; or served at least 181 days and was discharged because of hardship or reduction in force; or has been determined to have a service-connected disability of compensable severity.

Veterans who served during the Persian Gulf Conflict (beginning August 2, 1990), have the same 24-month length of service requirement as above; however, the exceptions only require 90 days of active duty instead of 181 days. Current active duty service members require 90 days of continuous active service for eligibility.

Certain members of the Selected Reserve and National Guard who are not otherwise eligible for Loan Guaranty benefits, who have served at least 6 years in the Reserves or National Guard and who continue to serve in the Selected Reserve, or who have been discharged under honorable conditions, or who have been discharged because of a service-connected disability, or who have been placed on the retired list, or who have been transferred to an element of the Ready Reserves other than the Selected Reserve, are eligible for VA Loan Guaranty benefits. Previous eligibility delimiting dates for Selected Reserve and National Guard members have been repealed.

Other persons eligible for VA Loan Guaranty benefits include the unremarried surviving spouse of a veteran who died on active duty or who died of service-related causes; the spouse of any active duty service member who has been listed as missing in action or as a prisoner of war for more than 90 days; certain U.S. citizens who served in the armed forces of an Allied government during World War II; and persons who served as members of certain other organizations, services, programs, or schools. An eligible surviving spouse who has remarried but whose remarriage has been terminated by death, divorce, or annulment regains eligibility for VA Loan Guaranty benefits. Beginning January 1, 2004, if the spouse is over age 57 at the time of remarriage, Loan Guaranty eligibility is not terminated. Veterans of World War I and members of the Reserves or National Guard whose only active duty was Active Duty for Training are not eligible for VA Loan Guaranty benefits. However, they may qualify for a veteran's loan under the National Housing Act loan program (FHA/HUD).

Upon application, VA will make a determination of eligibility and entitlement and issue a Certificate of Eligibility, which the veteran or eligible person should present to the lending institution when applying for the loan (however, the loan application may be made before applying to VA). A completed VA Form 26-1880, *Request for Determination of Eligibility and Available Loan Guaranty Entitlement*, should be sent together with appropriate proof of qualifying service and

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relationship (if applicable) to the appropriate VA Eligibility Center (**NOT** to the VA Regional Office) at the address below:

(States east of the Mississippi River)

VA Loan Eligibility Center
P.O. Box 20729
Winston-Salem, North Carolina 27120

(States west of the Mississippi River)

Los Angeles Eligibility Center
P.O. Box 240097
Los Angeles, California 90024

Note that the Eligibility Centers handle only issues pertaining to Loan Guaranty ***eligibility and entitlement***—questions regarding other Loan Guaranty matters should be directed to the VA Regional Loan Center having jurisdiction of the loan. For California residents this is: VA Regional Loan Center, 3225 North Central Avenue, Phoenix, Arizona 85012.

There are no time limits for using Loan Guaranty entitlement. Beginning December 16, 2003, the previous delimiting date time limits for Reservists and National Guard members who qualify for Loan Guaranty benefits based on service in the Selected Reserves and/or National Guard are repealed.

Once Loan Guaranty entitlement has been used it generally cannot be restored, except under the following circumstances:

1. If the entitlement limits have been increased since the previous loan was approved, the difference between the old limits and the new limits may be available for a new VA loan, even if the previous loan is not fully paid off; or
2. If the property has been sold and the previous loan has been paid in full; or
3. A qualified eligible person buys the property, agrees to assume the outstanding VA loan balance, agrees to substitute the same amount of his or her entitlement for the entitlement originally used to guarantee the loan, ***and*** the new buyer meets all of the occupancy, income and credit requirements; or
4. ***One time only***—If the prior VA loan has been paid in full but the property securing that loan has not been sold or otherwise disposed of, the entitlement used in connection with that loan may be restored.

In each of these cases application for restoration of entitlement must be made by completing and submitting VA Form 26-1880, *Request for Determination of Eligibility and Available Loan Guaranty Entitlement*, to the appropriate VA Eligibility Center.

A veteran or eligible person may at any time sell the property on which a VA loan has been made. However, if the new buyer will be assuming the existing VA loan there are differing requirements, depending on whether the original loan closed before or after March 1, 1988. If the original loan closed before March 1, 1988, the loan may be assumed without the approval of either VA or the lender; however, the veteran or eligible person who obtained the original loan will remain liable should the current or any future assumer ever go into default. This can be avoided by obtaining a release of liability from the VA Regional Loan Center.

If the original loan closed on or after March 1, 1988, the loan cannot be assumed by another party unless VA or the lender (or both) are notified, approve the assumer, and release the veteran or eligible person from further liability. The application forms for this may be obtained from the lender to whom the payments are being made, or from the VA Regional Loan Center.

Loan Guaranty

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. The veteran was a Reservist whose unit was activated during the Gulf War. The veteran was on active duty from November 15, 1990 to April 30, 1991, at which time the Reserve unit returned to its previous status. Is the veteran eligible for Loan Guaranty benefits?
(Y/N)
2. Which may a VA-guaranteed loan *not* be used for:
 - a. To buy and/or improve an existing home to live in.
 - b. To buy a lot on which to place an already-owned mobile home.
 - c. To build an apartment building to use solely as income property.
 - d. To buy a farm including the farm house to live in.
3. The veteran was rated 100% since 1952 because of service-connected anatomical loss of both feet. He died when the car in which he was a passenger was struck by a truck. Is the surviving spouse eligible for VA Loan Guaranty benefits?
(Y/N)
4. The veteran obtained a VA-guaranteed loan in 1980 to buy a home. Last year he sold the home to another person (not a veteran). Rather than refinance the loan, the new owner simply assumed the existing mortgage. After six months the new owner stopped making payments, and the loan has gone into default. Is the veteran still liable for the loan?
(Y/N)
5. The cost of a VA-guaranteed loan includes funding fees, which may be proportionately reduced if the veteran has any service-connected disabilities, depending on the degree of disability.
(T/F)

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- 6.** What is the time limit for using VA Loan Guaranty benefits?
 - a.** Ten (10) years after separation from service.
 - b.** September 30, 2009 for members or former members of the Selected Reserve.
 - c.** There are no time limits for using this benefit.
 - d.** Both a. and b., above.

- 7.** If a husband and wife are both veterans, can they combine their separate Loan Guaranty entitlements?
(Y/N)

- 8.** VA will make a direct loan to eligible veterans under the following circumstances:
 - a.** If there are no lenders available in the veteran's local area.
 - b.** To a Native American veteran to buy or build a home on tribal lands.
 - c.** If the veteran or eligible person does not meet the lender's normal requirements for a loan.
 - d.** If several veterans go together to purchase a property.
 - e.** Either a. or b., above.
 - f.** Either b. or c., above.

- 9.** Will VA guarantee a loan to purchase a home in a foreign country?
(Y/N)

- 10.** Even though a veteran has previously used the full amount of Loan Guaranty entitlement, under certain circumstances that entitlement may be restored.
(T/F)

TRAINING MODULE 12

STUDY PLAN

VA Insurance

Objective:

To learn about the different types of life insurance plans available to veterans, and the terms and conditions associated with them.

References:

Title 38, U.S. Code, Chapter 19.

38 Code of Federal Regulations, Parts 6, 7, 8, 8a, and 9.

VA Pamphlets:

29-9, *Service-Disabled Veterans Insurance: RH: Information and Premium Rates*

29-77-03, *Facts About Beneficiary and Option Designations:*

Do You Know How the Naming of a Beneficiary or Beneficiaries and Selection of Optional Settlements Affect the Payment of Your Government Life Insurance?

29-77-4, *Veterans Special Life Insurance: Information About Conversion and Premium Rates For "W" Policies*

SGL 74-3, *Information Pamphlet for Converting Your Servicemen's Group Life Insurance to Veterans Group Life Insurance*

SGLV 78-1, *Questions and Answers on Servicemen's Group Life Insurance*

80-03-1, *Federal Benefits for Veterans and Dependents*

VA Booklet: *Government Life Insurance Programs for Veterans and Members of the Uniformed Services* (January 2002)

Instructions:

Study the assigned reference materials to learn how to assist veterans and beneficiaries to apply for VA insurance and/or the proceeds from veteran's insurance.

Summary:

The Department of Veterans Affairs (VA) either directly administers or supervises the administration of eight different insurance programs, covering veterans and active duty service members from World War I to the present. All VA insurance activities are now centralized to the VA Regional Office and Insurance Center in Philadelphia, Pennsylvania (the Insurance Center formerly located at VAROIC St. Paul, Minnesota, is no longer active).

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The oldest VA insurance program is United States Government Life Insurance (USGLI), identified by policy number prefix “**K**”. This was established in 1919 for conversion of World War I War Risk Term Insurance, and was later made available to service members who had served after World War I, until October 8, 1940. After that date only veterans who had actually served in World War I were eligible for enrollment. All enrollments under this program were closed on April 24, 1951. As of January 1, 1983 all USGLI policies were declared paid-up, and premiums are no longer collected on them.

With the massive expansion of the U.S. Armed Forces just before World War II, a new program, National Service Life Insurance (NSLI), identified by policy number prefixes “**V**”, “**N**”, or “**AN**”, was opened on October 8, 1940. This was also a term insurance, with a \$10,000 limit. The policies could be renewed indefinitely, with associated increases in premiums as the policy holder got older, or could be converted to a permanent plan with fixed premium rates. In 1984 premium rates for the term policies were capped at the age 70 levels. All NSLI enrollments also closed on April 24, 1951.

Between August 1, 1946 and December 31, 1949 a small number of NSLI policies, identified by policy number prefix “**H**”, were issued to certain veterans with service-connected disabilities. These policies were and are identical to the NSLI “**V**” policies in every respect, except that they do not pay annual dividends.

Beginning April 25, 1951 the Veterans’ Special Life Insurance (VSLI) program, identified by policy number prefix “**RS**”, was established for veterans of the Korean Conflict and the immediate post-Korean period. At this time active duty service members were issued a no-cost policy for \$10,000 under a program called Servicemen’s Indemnity, which remained in force for 120 days after separation from service. During the 120-day period, these veterans could apply for the VSLI \$10,000 special term insurance, which also could be renewed indefinitely. Enrollments under the VSLI program closed on December 31, 1956. Beginning in 1959, “**RS**” policy holders could either convert to a permanent plan or exchange their “**RS**” policies for a lower premium term policy, identified by policy number prefix “**W**.” These “**W**” policies had to be converted to a permanent plan before the veteran reached age 50 or they ceased coverage. In 1989 all remaining “**RS**” term policies had their premium rates capped at age 70 levels.

Also beginning April 25, 1951, the Insurance Act of 1951 established an insurance program for veterans with service-connected disabilities, the Service-Disabled Veterans Insurance (S-DVI) program, identified by policy number prefix “**RH**”. This program is open only to veterans who have been adjudicated as having a service-connected disability of any severity (including 0%), and continues to be open to new enrollees. Originally the veteran had to apply for the insurance within one year from the date service connection was established for a disability, but in 1991 the time limit was extended to two years from the date the veteran is notified that service connection has been established. The normal maximum coverage is \$10,000, but totally disabled veterans under age 65 may apply for up to \$20,000 of supplemental coverage. Beginning April 1, 2001 the premium rates for “**RH**” policies are capped at age 70 levels.

In 1959 an additional provision was made for those veterans who were eligible to apply for S-DVI but who became incompetent and then died as a result of service-connected disability before their legal fiduciary could make application. This gratuitous S-DVI, identified by policy

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number prefix “**ARH**”, is for a maximum amount of \$10,000 and is payable in a lump sum only, to the veteran’s spouse; or if no spouse, to the children, in equal shares; or if no children, to the parents, in equal shares. Application for gratuitous S-DVI must be received within two years of the veteran’s death.

Between May 1, 1965 and May 2, 1966, certain disabled veterans who had been eligible to obtain insurance between October 8, 1940 and January 1, 1957 but did not do so were given an opportunity to apply for Government life insurance under the Veterans’ Reopened Insurance (VRI) program, identified by policy number prefixes “**J**”, “**JR**”, or “**JS**”. The disabilities could be either service-connected or nonservice-connected. All policies under this program were permanent plans, no term policies issued. Because the policy holders are disabled, premium rates are higher than standard; the rates vary according to the nature and severity of the disabilities. In October 1977 all premium-paying “**JS**” policies were declared fully paid-up, and premiums are no longer collected on these policies.

In 1965 the Servicemembers’ Group Life Insurance (SGLI) program was established. This is a group life policy issued by the Prudential Insurance Company of America, and is administered by the Office of Servicemembers’ Group Life Insurance (OSGLI) under VA supervision. The program provides full-time coverage of up to \$250,000 to all commissioned officers, warrant officers, and enlisted members of the Armed Forces, as well as to commissioned members of the National Oceanic and Atmospheric Administration and the U.S. Public Health Service, to cadets and midshipmen of the U.S. Service Academies, and to Ready Reservists who are scheduled to perform at least 12 periods of inactive duty training per year.

Maximum coverage of \$250,000 (beginning April 1, 2001) is automatic for the eligible service member or Reservist upon entry onto active duty or Reserve status, unless the member declines coverage or elects reduced coverage, in increments of \$10,000. Full-time coverage remains in effect throughout the member’s period of active duty or Reserve status, and for a period of 120 days following separation or release. However, if the service member is totally disabled at the time of separation from active duty, coverage will remain in effect for one year or until the total disability ends, whichever occurs first. Prior to termination of coverage, the member must either convert SGLI coverage to Veterans’ Group Life Insurance (VGLI) or to an individual commercial life insurance policy. In addition, any active duty service member who was insured under SGLI and who died in performance of duty between October 1, 2000 and March 31, 2001 is retroactively insured for the new maximum amount.

Beginning November 1, 2001 the dependent spouse and child(ren) of an eligible service member or Reservist may also be insured under SGLI. The service member or Reservist must be insured under SGLI before dependents may be insured under this program. Coverage will be \$100,000 for the spouse, unless the sponsor elects coverage of less than \$100,000, and \$10,000 for each child. When the sponsoring service member or Reservist is separated or released from active duty or Reserve status, the insured spouse will have 120 days to convert the SGLI policy to a commercial life insurance policy (there is no equivalent coverage under VGLI for a spouse). SGLI insurance for a dependent child will terminate when the sponsoring service member is separated or released from active duty or Reserve status. The same time limits and other restrictions will apply if the sponsor should die while insured under SGLI.

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Part-time SGLI coverage is provided to eligible Reservists (but not their dependents) who do not qualify for full-time coverage. Part-time coverage is in effect only on the actual days of active duty or active duty for training and the travel to and from such duty. Coverage may be extended for 120 days if the member incurs or aggravates a disability during a period of such duty.

The Veterans' Group Life Insurance (VGLI) program was established in 1974. Like SGLI, the program is a group life policy issued by the Prudential Insurance Company of America, and is administered by OSGLI under VA supervision. VGLI is a renewable five-year term insurance. It can be converted at any time to an individual commercial life insurance policy with any one of the participating commercial insurance companies.

Service members and Reservists with full-time SGLI coverage are eligible for VGLI upon being released from active duty or the Reserves, provided application for coverage is submitted within 120 days following separation (one year, if the service member is totally disabled at time of separation). Members of the Ready Reserve who have part-time coverage under SGLI are also eligible for VGLI if they incur or aggravate a disability while performing active duty or active duty for training, which renders them uninsurable at standard rates. Finally, members of the Individual Ready Reserve (IRR) and Inactive National Guard (ING) are eligible for VGLI, provided they apply for coverage within 120 days after assignment, and for so long as they remain members of the IRR or ING.

VGLI is issued in increments of \$10,000 up to \$250,000, but may not exceed the amount of SGLI in force at the time the member separated from active duty or the Reserves. Since rates for term insurance increase as the policy holder gets older, a Decreasing Term Option has been added for older policy holders. This keeps the premiums level for life while the coverage declines by 25% over three successive five-year renewal periods, then remains level thereafter at 25% of the original coverage.

Veterans' Mortgage Life Insurance (VMLI) is a special mortgage life insurance issued only to those severely disabled veterans who have been issued a Special Adapted Housing grant by VA. Coverage is automatic unless the veteran specifically declines it. The maximum amount of the policy is \$90,000, and coverage decreases as the amount of the mortgage decreases. The insurance is payable only upon the veteran's death, and only to the mortgage lender. VMLI is not available if the veteran is 70 years old or more when eligibility for Special Adapted Housing arises. If the home is refinanced or remortgaged, the maximum amount of insurance will not be reinstated. If the veteran is a part owner of the home, the insurance will cover only the percentage of the title in the veteran's name. The insurance coverage terminates if the mortgage is fully paid off, or if the veteran terminates ownership of the property securing the mortgage. Beginning December 6, 2002, VMLI no longer automatically terminates upon the veteran's 70th birthday.

With certain exceptions, VA policies all have provision for waiver of premiums if the policy holder becomes totally disabled prior to age 65. The total disability need not be service-connected, but must last for at least six months. USGLI policy holders who elected the "Endowment at Age 96" option do not have waiver of premiums for total disability. Totally disabled veterans who have "RH" policies may be granted a waiver of premiums for the basic policy, but not for any supplemental coverage. Veterans who qualify for VMLI are totally disabled by definition, and there is no waiver of premiums. All USGLI, NSLI, VSLI, and VRI policies except for "RH", "JR", and "JS" also have a Total Disability Income Provision, which pays a monthly amount should the insured become totally disabled before age 65.

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Insurance premiums which are not waived may be paid in any of several different ways: by direct payment (check or money order payable to VA); by allotment from service pay or military retired pay (if the insured veteran is receiving service pay or military retired pay); by deduction from VA benefits (if the veteran is receiving VA compensation or pension); by automatic deduction from the insured veteran's checking account (VA MATIC); or by using insurance dividends to pay the premiums.

USGLI, NSLI (except for prefix "H" policies), VSLI, and VRI policies all pay annual dividends. Unless specified otherwise, dividends will be credited to an interest-bearing account, to be added to the cash value of the insurance. Other options include direct payment to the policy holder; using the dividends to pay premiums in advance; using the dividends to purchase additional paid-up insurance; or using the dividends to reduce indebtedness by applying them towards a loan or lien on the policy.

An insurance policy has a cash value equal to the reserve (the paid-up amount) plus any dividends held on deposit plus interest, less any indebtedness. After the policy has been in force for at least one year with all premiums either paid or waived, the policy may be surrendered for its cash value upon written request. However, if a policy is surrendered for cash it may not be reinstated. A loan for up to 94% of the value of the reserve less any indebtedness may be made on a policy which has been in force for at least one year with all premiums either paid or waived.

An insured veteran may name any person(s) or legal entity as beneficiary, including corporations and estates. Unless the veteran specifies otherwise, beneficiary designation(s) will apply to all of the veteran's policies. If there are multiple beneficiaries, the distribution of shares must equal 100%. Principal and contingent beneficiaries must always be clearly identified as such. All beneficiary designations must be in writing and witnessed. If no beneficiary is designated, the standard order of distribution is: (1) spouse; (2) children (in equal shares); (3) parents (in equal shares); (4) executor of the estate; or (5) other next of kin. The insured veteran retains ownership of the policy (or policies) and retains the right to name or change beneficiaries, regardless of state court orders, property settlements, or divorce decrees to the contrary. Ownership of the policy may not be divested from the insured nor may it be transferred to a trust (however, a trust may be named as a beneficiary).

If the veteran is adjudged incompetent by a court of competent jurisdiction, the legal representative (guardian, conservator, etc.) may make a beneficiary designation on the veteran's behalf, with the specific authorization of the court. An alternative is to have the veteran make the change of beneficiary during a lucid moment; this must be witnessed by a physician, who must then verify in writing that the insured had the capacity to understand the nature and consequences of the action. A last will and testament cannot be used to make a change of beneficiary, although it can be used to designate changes in payment options.

VA insurance proceeds other than SGLI or VGLI are paid either as a lump sum or in guaranteed installments of from 36 to 240 monthly payments. If installments are selected and no beneficiary survives the insured, or no beneficiary survives to receive all of the guaranteed installments, any available amounts will be paid in a lump sum to the veteran's estate (or for USGLI policies, the estate of the last surviving beneficiary). If a lump-sum option is selected, the proceeds are paid to the beneficiary's estate unless the insured has directed that they be paid to contingent beneficiaries. If multiple beneficiaries are named, the share(s) of any beneficiaries who die before the veteran are paid to the surviving beneficiaries.

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SGLI and VGLI policy proceeds are payable either as a lump sum, or in installments of not more than 36 equal monthly payments. If the lump sum option is chosen, the proceeds are deposited into an interest-bearing account called an “Alliance Account,” which is guaranteed by Prudential. The beneficiary is issued a checkbook from which checks may be written against the account, for any amount from \$250 up to the full amount of the proceeds.

SGLI and VGLI policies also have an “accelerated benefit” provision for terminally ill insured persons. This permits payment of up to one-half the face amount of the policy to the insured person prior to his or her death, in increments of \$5,000. Medical certification of life expectancy of nine months or less is required. The accelerated benefit option may only be requested by the insured person. Application is made by completing SGLV 8284, *Servicemembers’ and Veterans’ Group Life Insurance Accelerated Benefits Option*, (which contains provision for the required physician’s certificate), and submitting it to:

OSGLI ABO Claim Processing
213 Washington Street
Newark, New Jersey 07102-2999.

VA Insurance

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. The USGLI program was established to meet the needs of _____ veterans.
 - a. World War I
 - b. World War II
 - c. Korean Conflict
 - d. Vietnam Era
2. All USGLI policies were declared fully paid-up as of:
 - a. January 3, 1974
 - b. October 8, 1981
 - c. January 1, 1983
 - d. April 1, 1992
3. Beginning in 1991, gratuitous S-DVI insurance is payable to the beneficiary only as a lump-sum payment.
(T/F)
4. For veterans who qualify for VMLI insurance, the maximum coverage is \$_____.
 - a. \$55,000
 - b. \$75,000
 - c. \$90,000
 - d. \$115,000
5. The maximum coverage available under SGLI is \$250,000, and is automatically assigned upon entry onto active duty. May the service member elect lesser coverage?
(Y/N)
6. The spouse of a service member covered under SGLI may also be insured under SGLI, and may convert that insurance to either VGLI or to a commercial life insurance policy if application is made within 120 days of the date the sponsoring service member is separated from active duty.
(T/F)

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7. A veteran who was covered under SGLI while on active duty may convert that policy to VGLI by making application within 180 days of separation from active duty.
(T/F)
8. To qualify for S-DVI coverage, a veteran must have at least one compensable (10%) service-connected disability.
(T/F)
9. Who is the beneficiary on a VMLI policy?
- a. The mortgage holder (lender) on the veteran's specially adapted house.
 - b. The veteran's spouse.
 - c. Any co-mortgagee other than the veteran's spouse.
 - d. None of the above.
10. Can a veteran name a new insurance beneficiary in his or her will?
(Y/N)
11. What is the time limit for applying for coverage under the S-DVI ("RH") insurance program?
- a. Six months after separation from active duty, if the veteran has a disability.
 - b. One year from the date the veteran applies for service connection for a disability.
 - c. One year from the date VA notifies the veteran of the grant of service-connection.
 - d. Two years from the date VA notifies the veteran of the grant of service-connection.
12. How many different insurance programs does the Department of Veterans Affairs administer, either directly or indirectly?
- a. Six (6)
 - b. Eight (8)
 - c. Twelve (12)
 - d. Sixteen (16)
13. Unless specified otherwise, a beneficiary designation applies to all of the veteran's insurance policies.
(T/F)

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14. The loan value of an insurance policy which has been in effect for at least one year, with all premiums either paid or waived, is 94% of the reserve value less any indebtedness.
(T/F)
15. All veteran's insurance programs provide for waiver of premiums for total disability.
(T/F)
16. Which of the following types of policies do ***not*** provide for a Total Disability Income Provision to the basic policy?
- a. Service-Disabled Veterans' Insurance ("**RH**")
 - b. Veterans' Reopened Service-Disabled Insurance ("**JR**")
 - c. Veterans' Reopened Nonservice-Disabled Insurance ("**JS**")
 - d. All of the above

TRAINING MODULE 13

STUDY PLAN

Vocational Rehabilitation

Objective:

To learn the elements of the VA Vocational Rehabilitation program, and what benefits and services are available for a veteran training under this program.

References:

Title 38, U.S. Code, Chapter 31.

38 Code of Federal Regulations, Part 21, Subpart A, §§ 21.1–21.430.

Adjudication Manual 21-1, Part IV, Chapter 23, paragraph 23.09; and

Part VI, Chapter 4, paragraph 4.02.

VA Pamphlets 28-82-1 and 80-99-1.

Instructions:

Study the assigned reference materials learn the basic requirements for a program of Vocational Rehabilitation, and how to apply for it.

Summary:

The Department of Veterans Affairs (VA) Vocational Rehabilitation program is designed to help a service-disabled veteran overcome employment handicaps imposed by such disability, so that the veteran is able to find and keep suitable employment as well as to achieve maximum independence in daily living. The primary goal of the program is to train disabled veterans for appropriate employment; although education benefits for school attendance may be authorized if that is determined to be the best way to prepare a particular veteran for entry or re-entry into the labor force, Vocational Rehabilitation benefits must not be viewed as a supplement to or a substitute or replacement for VA education assistance benefits available under other programs.

Eligibility for and entitlement to Vocational Rehabilitation requires that a veteran have service-connected disability or disabilities ratable at 20% or more, and have an employment handicap resulting primarily from such disability. A veteran with a 10% service-connected disability (including multiple noncompensable conditions for which compensation at the 10% rate is paid under 38 CFR § 3.324) may also qualify, on a showing that such disability produces a “serious” employment handicap. Statutory ratings under 38 U.S.C. 1114(k) (loss of a creative organ) or the former subsection (q) (arrested tuberculosis) do not qualify. The period of eligibility is 12 years from date of discharge from service or 12 years from from the date VA first notifies the veteran

of a qualifying service-connected disability, whichever is the later. This may be extended for severely disabled veterans who are unable to begin or complete their program within that time because of their disability, or who are determined to have a severe employment handicap such that they require additional time for rehabilitation.

Rehabilitation services may continue until the veteran has reached his or her rehabilitation goal, but the education or training portion of a rehabilitation program may not exceed 48 months, except under exceptional circumstances. VA may continue to provide counseling, job-placement, and post-employment services for up to 18 additional months. Veterans in a Vocational Rehabilitation program of education or training who are also eligible for benefits under one or another VA education and training assistance programs must elect from which program they will draw benefits; concurrent benefits may not be paid under more than one program for the same course of education or training.

A veteran who applies for Vocational Rehabilitation must be entitled to receive compensation (or would be entitled except for the receipt of military retired pay). The application for Vocational Rehabilitation may be submitted together with the application for compensation, or may be filed at any time thereafter, subject to the 12-year time limit. An active duty service member who is hospitalized awaiting separation from service for disability may apply for Vocational Rehabilitation without applying for compensation. The active duty service member must have a service-connectable disability which is immediately ratable at 20% or more to qualify for consideration.

When an application is received and it is established that a qualifying degree of disability is present, the applicant will be given counseling, testing and evaluation to determine whether an employment handicap exists, and if so, whether training and/or rehabilitation services are feasible or necessary. Rehabilitation programs may include employment (including self-employment) services and assistance; educational (college-level) or vocational (trade, business or technical school) training; apprenticeship or on-job training; or farm cooperative training. For severely disabled veterans there may be training in a rehabilitation facility, in a sheltered workshop, or in-home; the program may also include independent living services and training.

While in training a veteran will be paid a monthly subsistence allowance, varying according to the type and rate of training, the number of dependents, and other factors. In addition, VA will pay all training expenses, including tuition, fees, books and supplies, and the cost of any necessary tools, equipment, and uniforms. The veteran is also entitled to any and all medical and dental treatment (or reimbursement for the costs of such treatment), including prosthetic devices or other special equipment and special restorative services, necessary to continue or complete his or her program. When necessary, the veteran may be provided special help such as tutoring assistance, readers for the visually impaired, or sign language interpreters for the hearing impaired. If the veteran encounters unexpected financial difficulties while training, a no-interest loan service is available. Counseling services, including educational, vocational, personal, and employment counseling are available, as well as career planning and job placement services.

A veteran who is rated as totally disabled because of individual unemployability may apply for and pursue a program of Vocational Rehabilitation without jeopardizing the total disability rating. Even if the veteran is then rehabilitated and able to obtain employment, the total disability rating will continue undisturbed for a minimum of 12 months so the veteran can demonstrate that he or she is able to maintain substantially gainful employment, and is no longer unemployable.

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. There is no requirement that a veteran be disabled to pursue a program of Vocational Rehabilitation. (T/F)
2. May an active duty service member receive payments for pursuing a program of Vocational Rehabilitation before separation from active duty? (Y/N)
3. Generally, how long may a veteran in a program of Vocational Rehabilitation pursue a course of education or training?
 - a. 36 months
 - b. 45 months
 - c. 48 months
 - d. As long as is necessary
4. While training in a program of Vocational Rehabilitation, the veteran may be entitled to which of the following:
 - a. VA payment for costs of training, including tuition and fees, books and supplies, and tools and uniforms.
 - b. Any medical and/or dental care necessary to allow the veteran to continue training, or reimbursement for the costs of such care.
 - c. Payment of a monthly subsistence allowance including additional amounts for dependents, if any.
 - d. All of the above.
5. Generally, a veteran has 12 years from the date of separation from service or 12 years from the date VA notifies him or her of qualifying disability, whichever is the later, to complete a program of Vocational Rehabilitation. (T/F)
6. When a veteran applies for Vocational Rehabilitation, he or she must undergo counseling and evaluation to determine whether there is an employment handicap, and if so, whether a rehabilitation program is feasible. (T/F)

7. All Vocational Rehabilitation services terminate when the veteran completes the chosen course of education or training. (T/F)
8. If a veteran has been provided Vocational Rehabilitation services and determined to be rehabilitated to the point of employment, he or she may later be authorized further rehabilitation services if:
- a. The veteran's service-connected disability has become more severe, so that the occupation for which the veteran was rehabilitated is no longer suitable or feasible.
 - b. The veteran is underemployed and feels frustrated over the lack of advancement possibilities.
 - c. Since being rehabilitated, the requirements for the occupation for which the veteran was rehabilitated have materially changed so that the veteran is no longer capable of performing the duties required for that occupation.
 - d. Either a. or c., above.
9. If a service-disabled veteran who has been rated as totally disabled because of individual unemployability begins a program of Vocational Rehabilitation, the rating of individual unemployability will be reduced:
- a. Immediately.
 - b. Never—individual unemployability must be shown to be permanent at the time it is assigned, so whatever happens thereafter is irrelevant.
 - c. At the time the veteran is declared to be rehabilitated.
 - d. After the veteran has been declared rehabilitated, has been placed in a suitable employment situation, and has maintained that employment for at least 12 months.
10. Besides courses of education and/or training, the Vocational Rehabilitation program may also provide instruction and training for very severely disabled veterans to assist them in attaining the maximum degree of independent living possible. (T/F)

TRAINING MODULE 14

STUDY PLAN

Veterans' Education Assistance

Objective:

To learn about the different educational assistance programs available for veterans, members of the Selected Reserve, and others, and how to assist an eligible veteran or other eligible person to apply for VA education assistance.

References:

Title 38, U.S. Code, Chapters 30 and 32.

38 Code of Federal Regulations, Part 21, Subparts G, K, and L, §§ 21.5001–21.5300 and 21.7000–21.7810.

VA Pamphlets 22-90-2, 22-90-3, 22-90-4, and 80-99-1.

Instructions:

Study the assigned reference materials to learn the criteria for benefits under this program and how to assist a veteran or other eligible person submit a claim for education assistance.

Summary:

The Department of Veterans Affairs (VA) will provide an education assistance allowance for eligible veterans, active duty service members, and members of the Selected Reserve, and to certain civilians and family members who are covered under the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) and Executive Order 12598.

For veterans, there are currently two programs available: 38 U.S. Code, Chapter 30 (also called the All Volunteer Force Educational Assistance Program or the Montgomery GI Bill), and 38 U.S. Code, Chapter 32 (also called Post-Vietnam Era Veterans' Education Assistance Program or VEAP). Chapter 32 is the older of the two programs. Both of these programs are also available for active duty personnel, but those cases would normally go through the Base or Post Education Office and County Veterans Service Offices would not be involved, so specific features for active duty service persons are not discussed here.

For eligibility under Chapter 32, the veteran must have entered service on or after January 1, 1977, but before July 1, 1985. There is a minimum length of service requirement: originally the veteran was required to serve at least 181 continuous days, but veterans whose original enlistment was after September 7, 1980 or who entered onto active duty after October 16, 1981 (either as an officer or an enlisted member) are required to have served either 24 continuous months or the full period for which the member was called or ordered to active duty, whichever was the shorter. The minimum length of service requirement does not apply if the veteran was discharged because of hardship; was discharged under an early-out program; was discharged because of a service-connected disability; or is determined to have a service-connected disability of compensable severity. The discharge must be honorable or general under honorable conditions. The veteran has 10 years from the date of final discharge from the period of qualifying service to use the benefits; this period may be extended if the veteran re-enters active service for at least 90 days, or is prevented from training because of a disability (including the disabling effects of chronic alcoholism).

For eligibility under Chapter 30, the veteran must have entered service on or after July 1, 1985. The minimum length of service is 36 months of continuous service unless the term of service was less than three years, in which case the minimum is 24 months of continuous service. The minimum length of service requirements do not apply if the veteran is discharged because of hardship; is discharged for the convenience of the Government; is discharged for disability; is discharged because of a non-disabling medical condition which interferes with performance of duty; or is discharged because of a reduction in force. While on active duty, the veteran must have either completed the requirements for a high-school diploma or equivalency certificate or completed 12 hours towards a college degree. The discharge must be honorable; a general discharge under honorable conditions does not establish eligibility. The veteran has 10 years from the date of final discharge from the period of qualifying service to use the benefits; this period may be extended if the veteran re-enters active service for at least 90 days or is prevented from training because of a disability (including the disabling effects of chronic alcoholism) or because of being held by a foreign government or power.

Both Chapter 30 and Chapter 32 require that while on active duty the veteran contribute specified amounts of his or her salary to an education fund account. If the veteran did not contribute, or withdraws his or her contributions (Chapter 32 only), there is no eligibility for education assistance. Amounts withheld for Chapter 30 are not refundable. Both programs entitle the veteran to 36 months of benefits, except that under Chapter 30 if the veteran is discharged prior to completing the full enlistment period for any reason other than convenience of the Government, entitlement accrues at the rate of one month for each month served.

The Montgomery GI Bill also established an Educational Assistance program for members of the Selected Reserve of the Ready Reserves (includes the Army National Guard and the Air National Guard) under Title 10, U.S. Code, Chapter 1606. Eligibility for this program requires that beginning on or after July 1, 1985 the Reservist agrees to serve a six-year obligation in the Selected Reserve (an officer must agree to serve six years in addition to any other obligation). The Reservist must have completed initial active duty for training and must already meet the requirements for a high school diploma or equivalency certificate. The Reservist must drill in a drilling Selected Reserve unit and remain a member in good standing of the unit.

The Reservist is not required to contribute any part of his or her salary. The Reservist has 10 years from the date eligibility under this program first arises to use the benefits, provided he or she remains in the Selected Reserve. The 10-year period may be extended if the Reservist is unable to train because of a disability caused by service in the Selected Reserve. If the Reservist

is called to active duty, the period of eligibility will be extended by the length of the period of active duty service plus four months. Even if the Reservist leaves the Selected Reserve, he or she may still have the full 10-year period of eligibility, provided that he or she has a disability not due to misconduct; or he or she was involuntarily separated under provisions of 10 U.S. Code, Section 286(b), during the period October 1, 1991 through September 30, 1999; or the unit was inactivated during the period October 1, 1991 through September 30, 1999. The Reservist is entitled to 36 months of education assistance benefits.

VA also provides educational benefits for Civil Service employees of the United States and certain other civilians who were rendering personal services to the United States similar to a Civil Service employee, who were taken into captivity by a hostile power because of that relationship with the United States and subsequently released. Benefits are also available to family members of persons held in captivity under such circumstances or to family members of persons who die while in captivity under such circumstances. Determinations as to eligibility under these provisions are made by the Director General of the Foreign Service, Department of State. If eligibility is established, the former captive has 10 years from the date of release from captivity to use the benefits. A spouse will become eligible for benefits from the 91st day of captivity and continuing until 10 years from the date of release of the captive or 10 years from the date of death of the captive. Children will become eligible for benefits on the 91st day of captivity, but eligibility ends the date the captive is freed or released from captivity. Further, children are not eligible for benefits beyond age 21. An eligible person under this program has 45 months of entitlement to benefits. No contributions are required.

If a person has eligibility to benefits under more than one education or training program, including also Vocational Rehabilitation or Dependents' Education Assistance, the maximum amount of entitlement allowed under all programs combined is 48 months. The veteran or eligible person must elect under which program benefits are to be paid for any given course or entitlement period. All programs charge entitlement to benefits at the rate of one day of entitlement per one day of full-time training; the entitlement charges are pro-rated for training at less than full-time. Under certain circumstances, some of the programs will not make a charge against entitlement for certain types of training. The monthly rates payable vary according to the particular program, the type of training (institutional, apprenticeship, etc.), and the rate of training. Under certain circumstances, veterans training under Chapter 30 may be entitled to additional amounts for dependents, if training at the half-time rate or greater; except for veterans training under Vocational Rehabilitation, no other veterans or eligible persons are entitled to payment for dependents under any of the programs.

All of the programs allow essentially similar types of training: Degree programs at a college or university; independent courses of study; certificate programs from a trade, business, or vocational school; apprenticeship or on-job training programs; farm cooperative training programs; high school level programs (Chapter 32 veterans, former captives and spouses); remedial, refresher, or deficiency courses; correspondence courses; vocational flight training (except former captives and family members). None of the programs will pay benefits for self-improvement courses, courses given by radio or entirely by television, bartending courses, audited courses, repeats of courses previously successfully completed, or courses not leading to an educational, professional or vocational objective.

Jurisdiction over all education and training programs (except for Vocational Rehabilitation) is centralized, and claims for such benefits must be forwarded to the proper office of jurisdiction.

The VA Regional Office, Baltimore, Maryland, has exclusive jurisdiction of education and training claims from former captives and their family members under Public Law 99-399 and Executive Order 12598.

All of the other programs are under the jurisdiction of one of five Regional Offices depending on the veteran's, service person's, or Reservist's address and/or place of training, as follows:

- Eastern Region—VARO Buffalo, New York
- Southern Region (includes Puerto Rico and the Virgin Islands)—VARO Atlanta, Georgia
- Central Region—VARO St. Louis, Missouri
- Western Region (includes all U.S. Pacific islands except for the Phillipines)—VARO Muskogee, Oklahoma
- Republic of the Phillipines—VARO Manila

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. A veteran who is eligible for Chapter 30 education benefits may complete the requirements for a G.E.D. without charge to entitlement under this program.
(T/F)
2. If a veteran is eligible for education assistance benefits under more than one program, the maximum combined entitlement under all programs is:
 - a. 24 months
 - b. 36 months
 - c. 48 months
 - d. 60 months
3. If a veteran did not contribute a portion of his or her salary to the Education/Training Fund while on active duty, he or she will be paid education benefits at a reduced rate.
(T/F)
4. Which of the following is not true for Chapter 30 education benefits:
 - a. The veteran must have entered service on or after July 1, 1985.
 - b. The veteran must have served at least 36 continuous months of active duty; or, if the term of service was less than 36 months, served at least 24 continuous months; or have been discharged for disability, for hardship, for the convenience of the Government, or because of a reduction in force.
 - c. The veteran must have completed high school or the equivalent, or have completed 12 units or more towards a college degree before the end of the qualifying service.
 - d. The veteran's discharge from the period of qualifying service must have been honorable or general under honorable conditions.
5. Veterans eligible for education benefits under either Chapter 30 or Chapter 32 have 10 years from the day following discharge from the most recent period of service of 90 days or longer duration to use their benefits. (T/F)

6. VA education benefits are available to certain members of the Reserves and National Guard who agree to serve the following Reserve obligation:
- a. Two years
 - b. Four years
 - c. Six years
 - d. Eight years
7. Assuming that all minimum length of service and other requirements are met, what is the basic length of entitlement to benefits under Chapter 30 and Chapter 32?
- a. 24 months
 - b. 36 months
 - c. 45 months
 - d. 48 months
8. The 10-year period of eligibility for veterans under either Chapter 30 or Chapter 32 or for members of the Ready Reserve may be extended if a disability prevented the veteran or Reservist from beginning or completing a program of education or training during that 10 years. (T/F)
9. If a U.S. Civil Service employee assigned overseas is taken captive by a hostile power, how long must that person be held for him or her to qualify for education benefits under Public Law 99-399?
- a. 60 days
 - b. 90 days
 - c. 180 days
 - d. There is no minimum length of captivity to qualify under this program.
10. The child of a person who qualifies under Public Law 99-399 may receive VA education assistance until:
- a. Age 21
 - b. Age 23
 - c. Age 26
 - d. Age 31

- 11.** So long as the veteran, Reservist, or eligible person is training at the half-time rate or better, all of the various education programs pay additional amounts for dependents.
(T/F)

TRAINING MODULE 15

STUDY PLAN

Survivors' and Dependents' Education Assistance

Objective:

To learn how to assist an eligible dependent or survivor to apply for VA education assistance.

References:

Title 38, U.S. Code, Chapter 35.

38 Code of Federal Regulations, Part 21, Subparts C and D, §§ 21.3020–21.4280.

VA Pamphlets 22-73-3 and 80-03-1.

Instructions:

Study the assigned reference materials to learn the criteria for benefits under this program and how to assist a veteran's dependent or survivor submit a claim for education assistance.

Summary:

VA will provide an education assistance allowance to the spouse, surviving spouse, or child of a veteran who is rated permanently and totally disabled from service-connected disability; who died in service or as the result of a service-connected disability; who died from any cause not the result of willful misconduct and who at the time of death was rated as being permanently totally disabled from service-connected causes; or an active duty service member who is listed as being missing in action or a prisoner of war for more than 90 days or who is forcibly detained or interned in line of duty by a foreign Government or power.

Generally, the eligible person will be entitled to 45 months of assistance under this program. If there is eligibility under more than one education assistance program, the maximum combined entitlement is 48 months. Entitlement is charged at the rate of one day of entitlement for one day of class or training, if attending school or training at a full-time rate. Entitlement charges are pro-rated if the eligible person attends school at less than full-time, and under certain circumstances there may be no charge to entitlement.

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Although students under this program most commonly pursue institutional courses such as collegiate studies, business or vocational schools, etc., benefits may also be paid for apprenticeships, on-job training programs, or farm cooperative courses, also for secondary school courses leading to a high school diploma or for remedial courses to qualify for college admission. Assistance may be authorized for overseas study, but only if the courses lead to a college degree. Spouses and surviving spouses, but not eligible children, may take correspondence courses.

Payments are made monthly, and are based on the rate of attendance or training (full-time, three-quarter time, etc.). Since payment under Chapter 35 is predicated for basic eligibility upon recognition as a veteran's dependent, there are no additional amounts payable for the student's dependents.

Marriage of the veteran's child does not affect eligibility for education assistance under this program. On the other hand, if the veteran and spouse are divorced the spouse's eligibility for education assistance ceases. If the spouse is attending school when this occurs, benefits will continue to the end of that school term (quarter, semester). Beginning January 1, 2004, the remarriage of a surviving spouse who is over age 57 at the time of remarriage will not remove eligibility for Chapter 35 benefits; however, if the spouse is younger than age 57 at the time of remarriage, eligibility will terminate. Termination of the remarriage by death or divorce will restore eligibility.

An eligible person may not receive education assistance under Chapter 35 while serving in the Armed Forces, and must be discharged under honorable conditions to resume benefits upon separation from service. If the eligible person has eligibility under more than one education assistance program, he or she must elect which program he or she will receive benefits under for any given training program or enrollment period.

There are significant differences in the length of eligibility for children and for spouses or surviving spouses: Generally, a child is eligible for education assistance from age 18 or completion of high school, whichever is earlier, to age 26. If eligibility arises after age 18 but before age 26, the child will be eligible for education assistance for a period of eight years (ten years if pursuing an apprenticeship or a program of on-job training), but not beyond age 31.

If a child interrupts training to serve in the Armed Forces, or for other reasons beyond the child's control, the period of eligibility may be extended by an amount equal to the length of the interruption, but not beyond age 31. Regardless of the basis, eligibility may not first arise after the child's 26th birthday. After the child's 18th birthday, education assistance under Chapter 35 may **NOT** be paid concurrently with compensation, pension, or Dependency and Indemnity Compensation based on school attendance.

A veteran's spouse is eligible for education assistance for 10 years from the date permanent total disability arose or 10 years from the date of notice of permanent total disability, whichever is to the spouse's advantage. A surviving spouse is eligible for 10 years from the date of the veteran's death or 10 years from the date of notice that the veteran's death was service-connected, whichever is to the surviving spouse's advantage. If eligibility arises based on the veteran being rated permanently totally disabled at the time of death from nonservice-connected causes, the period of eligibility is 10 years from the date of the veteran's death. If eligibility is based upon an active duty service member being missing in action, a prisoner of war, or being forcibly held by a foreign government or power, the period of eligibility runs for 10 years after the 90th day of being listed in such status.

Survivors' and Dependents' Education Assistance

If the spouse or surviving spouse is unable to complete a program of education or training during the applicable 10-year period because of mental or physical disability (including the disabling effects of chronic alcoholism), the period of eligibility may be extended by an amount of time equal to the length of the disability. There is no other basis for extension of eligibility.

If a permanently totally disabled veteran remarries, whether because of the death of or divorce from the previous spouse, the new spouse is eligible for education assistance for a period of 10 years from the date of the marriage and has 45 months of entitlement, unless the new spouse is also entitled to education assistance under another VA education or training program. In that event, the spouse's total combined entitlement again may not exceed 48 months. There is no bar to simultaneous payment of Chapter 35 benefits and payment of compensation, pension, or Dependency and Indemnity Compensation as a spouse or surviving spouse.

An eligible disabled (helpless) child whose mental or physical disability precludes pursuit of an educational program may receive Special Restorative Training under Chapter 35. Under certain circumstances, this special training may be provided for more than 45 months, but not beyond the child's 31st birthday. In addition, an eligible disabled child over the age of 14 or an eligible disabled spouse or surviving spouse may receive Specialized Vocational Training, leading to a suitable vocational objective for the particular disability. When a child has been determined to be "helpless," there is no bar to concurrent payment of benefits for special training under Chapter 35 and compensation, pension, or Dependency and Indemnity Compensation, because these payments are based on the child's disability, and not on school attendance after age 18.

Determinations of eligibility to education assistance under Chapter 35 are made by the VA Regional Office having jurisdiction of the veteran's claims file. However, once eligibility is established, the eligible child's or spouse's claim comes under the jurisdiction of one of five centralized locations, depending on where the eligible person is attending school or being trained. These are:

- Eastern Region—VARO Buffalo, New York
- Southern Region (includes Puerto Rico and the Virgin Islands)—VARO Atlanta, Georgia
- Central Region—VARO St. Louis, Missouri
- Western Region (includes all U.S. Pacific islands except for the Phillipines)—VARO Muskogee, Oklahoma
- Republic of the Phillipines—VARO Manila

Survivors' and Dependents' Education Assistance

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. An eligible surviving child under age 18 who has completed high school may be paid both DIC (or death pension) and Chapter 35 education benefits. (T/F)
2. If a child becomes eligible for Chapter 35 benefits after his or her 18th birthday and attends school, he or she will remain eligible for benefits for 8 years, but not beyond:
 - a. Age 26
 - b. Age 28
 - c. Age 31
 - d. Age 35
3. If the spouse of a permanently totally disabled veteran is attending school under Chapter 35 and is divorced from the veteran without fault on the part of the spouse, the spouse's eligibility for education benefits terminates:
 - a. The day the divorce is final.
 - b. The end of the month in which the divorce becomes final.
 - c. The end of the year.
 - d. The end of the school term.
4. If a permanently totally disabled veteran remarries, the new spouse is entitled only to the remaining portion of the previous spouse's eligibility and entitlement to education benefits under Chapter 35. (T/F)
5. Which of the following types of training may an eligible child take under Chapter 35?
 - a. High school equivalency courses
 - b. Vocational flight training
 - c. Correspondence training
 - d. Personal development courses
6. The surviving spouse of a deceased veteran may extend the 10-year period of eligibility for Chapter 35 benefits if the surviving spouse is unable to begin or complete training because of mental or physical disability. (T/F)

Survivors' and Dependents' Education Assistance

7. If other requirements such as length of service are met, can an eligible child be paid Chapter 35 benefits for attending school while on active duty? (Y/N)
8. What is the oldest age that a child may first establish eligibility to benefits under Chapter 35?
 - a. 21
 - b. 23
 - c. 25
 - d. 28
9. May an eligible person under Chapter 35 train or attend school at less than full-time? (Y/N)
10. Under what circumstances may an eligible person under Chapter 35 be paid additional allowance for dependents?
 - a. So long as the eligible person attends full-time, he or she may be paid for all dependents.
 - b. An eligible spouse or surviving spouse may be paid for dependent children in custody, but an eligible child may not be paid additional allowance for dependents.
 - c. An eligible child may be paid additional allowance for a spouse, but not for the child's own children.
 - d. None of the above.

TRAINING MODULE 16

STUDY PLAN

Debt Management; Committee on Waivers and Compromises

Objective:

To learn how the Department of Veterans Affairs (VA) deals with overpayments and other debts, the requirements for waiver or compromise of such debts, and the effect of a waiver or compromise on future entitlement to VA benefits.

References:

Title 38, U.S. Code, Chapter 53.

38 Code of Federal Regulations §§ 1.900–1.970.

Adjudication Manual M21-1, Part IV, Chapter 24

Instructions:

Study the assigned reference materials to learn how to assist veterans or other claimants to request waiver of an overpayment or other debt, or to offer a compromise settlement.

Summary:

VA benefits are either direct monetary payments (compensation, pension, or education assistance) or the furnishing of goods or services having a monetary value (loan guaranty or health care). In either case, it happens from time to time that a claimant will be paid more than he or she is entitled, or is furnished goods or services to which he or she is not entitled or beyond the limits of entitlement. In loan guaranty cases, the claimant may default on the loan and the property go into foreclosure, leaving VA liable for the amount of the guarantee. When any of these happen, an overpayment is established and the claimant is indebted to the Government.

When an overpayment is established in any program under the jurisdiction of the Veterans Benefits Administration (VBA), the Debt Management Center at the St. Paul, Minnesota, VA Regional Office and Insurance Center assumes jurisdiction under the Centralized Accounts Receivable System (CARS). If the debtor is in receipt of compensation or pension benefits, the Debt Management Center will also handle first party medical debts over 90 days old owed to the Veterans Health Administration (VHA), generally from non-payment of required co-payments.

The Debt Management Center will send a notice to the claimant of the existence and amount of the overpayment (or debt) and demanding repayment. If the debt is a loan guaranty default, the notice is sent by Certified Mail (Return Receipt Requested). The notice will advise the claimant that if he or she is presently receiving benefits, those benefits may be automatically withheld to

recover or offset the amount of the overpayment unless the claimant responds within 30 days of the date of the notice, either agreeing to repay the debt or offering a compromise, or disputing the fact and/or amount of the debt, or requesting a waiver of the overpayment. If the claimant does not respond to this first letter, withholding of benefits is automatically initiated. If there is no response to the first notice and there are no benefits to offset, second and third notices are sent, at 30-day intervals, advising the claimant that failure to repay or settle the debt will result in the claimant's name being referred to credit reporting agencies and/or the Treasury Department for collection.

If the claimant responds within 30 days of the first letter, no withholding of benefits will be instituted pending the outcome and disposition of the debt. To be sure that it is timely received by VA, duplicate copies of the claimant's response should be sent to both the Debt Management Center and to the Regional Office (or Medical Center) of jurisdiction.

Under certain circumstances, VA will charge interest and/or administrative costs on delinquent debts, which are defined as being more than 30 days old. Loan guaranty debts are charged interest at the rate of 4% per year, but are not charged administrative costs. Education overpayments may be charged both interest and administrative costs, at variable rates. Compensation and pension overpayments do not accrue either interest charges or administrative costs.

If the claimant is willing to make repayment of the debt, a lump sum payment is preferred but installment payments of a reasonable amount for a reasonable period of time will be accepted. If the claimant disputes either or both the fact or the amount of the overpayment, the office of jurisdiction will verify the overpayment. If the claimant requests a waiver, a determination as to the validity of the debt must also be done before the waiver request is considered. The claimant may request a personal hearing at any point in the process.

A waiver request must be in writing, and should explain why the claimant feels he or she should not be held responsible for the debt. The request should also include a statement as to any financial hardship recovery of the debt might cause, or any other circumstance which would cause collection or recovery of the debt to be inequitable. The request must be accompanied by a completed VA Form 20-5655, *Financial Status Report*.

In all cases except for loan guaranty defaults, the time limit for requesting waiver of an overpayment is 180 days from the date the claimant is first advised of the existence of the overpayment; in loan guaranty cases, the claimant has one year from the date of receipt by Certified Mail (Return Receipt Requested) of the notice of indebtedness to request a waiver. If the waiver request is received more than 30 days after the date of the initial notice, however, any withholding of benefits begun will continue until the issue has been finally resolved. If the waiver is granted, the withheld benefits would then be refunded.

A waiver may be requested by the claimant or representative, or any other interested party on the claimant's behalf. If the waiver is denied, the claimant may appeal the denial to the Board of Veterans' Appeals and the Court of Appeals for Veterans Claims.

In general, waiver of a debt will usually be granted if there is a showing that collection of the debt would be against equity and good conscience. Factors considered in this determination include whether the debtor was entirely at fault in creation of the overpayment, or was there also fault on the part of VA; would collection of the debt, including withholding of benefit payments, produce undue hardship on the claimant or defeat the purpose for which the benefit was intended; would waiver of the debt result in unjust enrichment of the debtor; or has the claimant's reliance on VA

benefits resulted in the relinquishment of a valuable right or incurrence of a legal obligation which would be impaired by collection of the debt.

A waiver will be granted if the overpayment is the result of VA administrative error: that is, the claimant was completely without fault in the creation of the overpayment; the agency had the correct information but erroneously authorized an incorrect amount and the claimant either attempted to notify VA that the amounts paid were wrong, or relied in good faith on the agency's assurance that the amounts paid were correct.

Waiver of a debt is precluded if there is evidence of fraud or misrepresentation of material facts, or if there is evidence of bad faith or lack of good faith.

Certain types of debts or overpayments may not be waived, such as the cost of medical emergency or humanitarian services (may only be compromised) or where there is a statutory bar against payment, such as simultaneous payment of compensation and military retired pay. In addition, debts resulting from erroneous payment of benefits to a person who is not a payee and has no claim or entitlement to such payments may not be waived.

Waiver of an overpayment in an education assistance claim will result in a loss of future entitlement to education benefits equal to the amount waived. To regain the entitlement, the debt must be paid in full. In a loan guaranty or direct loan case, a waiver of the debt counts as entitlement used; the total debt must be paid in full to restore the previous entitlement.

The indebted person may make a compromise offer at any time in the collection process. This is an offer to pay some portion of the debt in a lump sum, in exchange for forgiveness of the balance. The compromise offer must be in writing and must be accompanied by a completed VA Form 20-5655, *Financial Status Report*. The offer must be sent to the Debt Management Center, which has jurisdiction of compromise offers. There is no time limit for making a compromise offer. A compromise offer may be considered even if waiver of the debt has been denied. Rejection or denial of a compromise offer may not be appealed to the Board of Veterans' Appeals; however, additional offers may be submitted.

Factors for consideration in a compromise offer include whether the debtor would be able to repay the entire amount of the debt within a reasonable time given the debtor's age, health, present and potential income, and availability of assets; also, whether the amount of the debt would justify the costs of litigation or other means of collection. If a compromise offer is accepted in an education overpayment, entitlement will be charged for the portion of the overpayment written off by VA. If a compromise offer is accepted for a loan guaranty debt, the compromised amount must be paid in full to restore entitlement.

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. For any VA benefit other than Loan Guaranty, the beneficiary must make a written request for waiver of an overpayment within _____ days after notification by VA of the debt.
 - a. 30 days
 - b. 60 days
 - c. 180 days
 - d. One year
2. If a veteran who is receiving compensation fails to make a required co-payment for VA medical care, the amount of that co-payment may be withheld from the veteran's compensation payments. (T/F)
3. A response to the first notification by the Debt Management Center, VAROIC St. Paul, of the existence of an overpayment must be submitted within _____ days to avoid collection of the debt by withholding of benefit payments.
 - a. 30 days
 - b. 60 days
 - c. 90 days
 - d. 120 days
4. If benefit payments are being withheld to collect a debt and the beneficiary submits a timely request for waiver of the debt, the withholding will be suspended pending a decision on the waiver request. (T/F)
5. VA may charge interest and administrative costs on delinquent education debts. (T/F)
6. How long does a person with a Loan Guaranty default have from the date of notice to request a waiver of the debt?
 - a. 30 days
 - b. 60 days
 - c. 180 days
 - d. One year

7. Must a debtor be completely without fault in the creation of the overpayment in order to be granted a waiver? (Y/N)
8. A non-veteran is given emergency treatment at a VA medical facility on a humanitarian basis. May this debt be waived? (Y/N)
9. If a waiver of overpayment has been already denied, may the debtor still offer a compromise settlement of the debt? (Y/N)
10. What is the time limit for making a compromise offer on a debt?
 - a. 60 days
 - b. 180 days
 - c. One year
 - d. There is no time limit for making a compromise offer to settle a debt.
11. Due to a clerical error, a veteran's compensation payments are erroneously directly deposited into the account of another person, who is not a veteran or any other class of VA beneficiary. Is this a debt which can be waived? (Y/N)
12. If a waiver of indebtedness is granted on a Loan Guaranty case, does this restore the claimant's entitlement to future loan guaranty benefits? (Y/N)

TRAINING MODULE 17

STUDY PLAN

Appellate Processing

Objective:

To learn how to assist a claimant to appeal the denial of a VA benefit, and to become familiar with the procedures for such actions, including submitting appeals to the U.S. Court of Appeals for Veterans Claims.

References:

Title 38, U.S. Code, Chapters 71 and 72.

38 Code of Federal Regulations, Part 3, §§ 3.102–3.105 and 3.2600; Parts 19 and 20.

Adjudication Manual M21-1, Part IV, Chapters 8, 35, and 38.

VA Pamphlets: 01-98-1, *Understanding the Appeal Process*;

80-03-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn how to submit a timely and proper Notice of Disagreement and Substantive Appeal, how to advise claimant on the correct procedures, and how to assist with the proper development and presentation of the appeal.

Summary:

Any unfavorable adjudicative decision by the Department of Veterans Affairs (VA) may be appealed to the Board of Veterans Appeals, and if the denial continues, to the U.S. Court of Appeals for Veterans Claims (previously called the Court of Veterans Appeals). An adjudicative decision is one which establishes or denies eligibility to a VA benefit, such as service connection for a disability, eligibility for dental treatment, monthly rate of education assistance, waiver of overpayment, etc. A decision that a veteran should be given one type of medical treatment rather than some other is not an *adjudicative* decision, and is not appealable through these channels.

An appeal is defined as a timely filed written Notice of Disagreement from a VA decision and, after a Statement of the Case has been furnished, a timely filed Substantive Appeal. A claimant has one year from the date of the letter notifying him or her of the denial of a benefit to submit a Notice of Disagreement; otherwise, that decision becomes final. The only requirements for a

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Notice of Disagreement are that it must be in writing, it must be addressed to the activity or operating element of VA which made the adverse decision, and it must be worded so it may reasonably be construed as a desire for appellate review. It is not necessary to say why the claimant is dissatisfied or to make any specific contentions on the Notice of Disagreement. If multiple issues were decided and the claimant disagrees with some but not all of the decisions, the Notice of Disagreement should specify which decisions are being contested. If it is not clear which decisions are being disagreed with, the claimant may be asked to be more specific.

For certain Notices of Disagreement the claimant and/or representative may obtain a *de novo* review of the decision by a local Decision Review Officer (DRO) as a first step in the appeal process. This procedure is generally restricted to those issues governed by 38 CFR, Part 3 (primarily Compensation and Pension claims, although issues affecting eligibility for other benefits, such as character of discharge, minimum active duty service requirements, recognition of dependents, etc., are also included).

To obtain a DRO review, the claimant and/or representative must request it. When a claimant or representative submits a Notice of Disagreement and does not specify if a DRO review is desired, VA is required to ask the claimant whether he or she wishes such review. The claimant is allowed 60 days to respond. This 60-day period may not be extended. If the claimant or representative does not request DRO review within 60 days after the date VA mails notice of eligibility for such review, the Notice of Disagreement will be processed in the traditional manner, as described below. Only one DRO review is allowed for each issue being contested.

If a DRO review is elected, the DRO will review the claim for correctness and reasonableness. If any additional development is indicated, the DRO will direct that it be done. If the claimant requests it, the DRO may also conduct either a formal hearing or an informal conference on the issue(s). If there is no additional evidence, the DRO may modify or reverse an unfavorable decision based on either *de novo* review or on clear and unmistakable error. However, the DRO may not issue a decision less favorable to the claimant than the original (contested) decision, unless the original decision was clearly erroneous. If the DRO review results in anything less than a full grant of the benefit(s) being sought and the claimant or representative does not withdraw the Notice of Disagreement, appellate processing then proceeds as described below.

For decisions not subject to DRO review, or if the claimant does not wish DRO review (or does not answer the letter asking if a DRO review is wanted), when a valid Notice of Disagreement is received the responsible VA activity, called the Agency of Original Jurisdiction (AOJ), is obliged to review the decision for correctness and to determine if any further development is necessary, and if so, to do it. After this review, if the full benefit being sought is still not granted, VA will then furnish a Statement of the Case (SOC) to the claimant and his or her representative (if any). If more than one VA element was involved in the unfavorable decision, the activity which notified the claimant of the denial has primary responsibility for the SOC.

The SOC will contain a recitation of the evidence considered in the decision, a recitation of the laws and regulations applicable to the decision, a statement of the decision, and a discussion of the reasons and bases why the rules applied to this evidence did not permit the benefit being sought to be granted. The claimant then has 60 days or the remainder of the one-year appeal period, whichever is later, to submit a Substantive Appeal (VA Form 9, *Appeal to the Board of Veterans' Appeals*, or the equivalent written statement) on the issue(s) covered; otherwise, the decision becomes final.

Appellate Processing

A Supplemental Statement of the Case (SSOC) will be furnished if additional evidence is considered after the original SOC has been sent; if an amended decision has been made granting part but not all of the benefit(s) being sought; or if there was any material defect in the original SOC. The SSOC has the same elements as the original SOC. If the appeal period had not expired when the additional evidence was considered, the claimant and representative (if any) will be furnished another VA Form 9 and allowed another 60 days (or to the end of the appeal period, whichever is later) for response. If additional issues are raised which were not covered in the original SOC, a new SOC (with another VA Form 9) will be issued regarding those additional issues. Return of this additional VA Form 9 is subject to the same time limits as the original Substantive Appeal.

The Substantive Appeal must make specific contentions relating to errors of fact or law made by VA in reaching the decision(s) being appealed. To the extent feasible, it should relate to specific points in the Statement(s) of the Case. The Board of Veterans' Appeals (BVA) may dismiss any appeal that does not make specific contentions; however, they will construe the record in a liberal manner to determine if this requirement has been met. Once the Substantive Appeal has been returned, the appeal has been "perfected," and the appellant is not required to take any further actions except to cooperate with any additional development as deemed necessary.

The AOJ will again review the evidentiary record for completeness and to make sure that all due process requirements have been observed. If these reviews result in a SSOC, the appellant and representative (if any) will be given an additional 60 days to make any further response desired. However, once a Substantive Appeal on each issue has been submitted, any further response is optional and is not required to continue the appeal. If there is a representative, the representative will be invited to make a final argument. The AOJ will then certify that the appeal is ready for BVA review, and forward the complete record to them.

The appellant and representative (if any) will be notified when BVA receives the appeal, and will be allowed a period of up to 90 days to submit any additional evidence desired or to request a personal hearing (if not already done), or to request a change in representation. (Note that most veterans' service organizations have strict rules against accepting appointment as representative during an ongoing appeal.)

BVA considers appeals in the order of receipt; however, an appeal may be moved to the head of the pending queue (advanced on the docket) if sufficient cause is shown. "Sufficient cause" would include terminal or serious illness of the appellant, advanced age of the appellant (over age 75), extreme financial hardship of the appellant, etc. Advancement on the docket must be requested in writing by either the appellant or the representative, and state the reason(s) for the request.

If BVA determines that the appeal is not yet ready for review, they will remand it back to the AOJ for additional development, observance of due process requirements, etc., as instructed. Under certain circumstances, depending on the specific evidence required, BVA may accomplish some additional development themselves without remanding the appeal back to the AOJ. If BVA determines that the case requires special expertise or involves complex legal issues, they may request an independent (from outside VA) expert medical opinion, or a legal opinion from VA General Counsel.

Appellate Processing

When BVA concludes that the appeal is ready for review, they will proceed. Whether BVA's final decision grants the appeal or affirms the denial, the appellant and representative (if any) will be advised in writing of the decision. The notice will include a listing of the issue(s) considered; findings of fact and law; a recitation of the evidence considered; and the reasons and bases for the decision as to each issue. The notice will also include notice of appeal rights to the Court of Appeals for Veterans Claims, including instructions on where and how to file an appeal to the court and the time limit for filing the appeal.

Additional evidence may be submitted by or for the appellant at any point between the time VA first notifies the claimant of its decision and the time BVA notifies the appellant of its decision. ***Remember, however, that submission of additional evidence does NOT extend the time limits for initiating or completing an appeal.*** Discretion must be exercised when requesting reconsideration of a decision based on additional evidence—if there is any question at all whether the new evidence can be reviewed, a notice (of continued denial) sent out, and the Notice of Disagreement filed before the one-year period from the date of the original notice elapses, it is better to word the request for reconsideration as an intent to appeal if the denial is continued. The claimant's appellate rights must always be protected, even at the cost of some administrative inconvenience to VA.

After the appeal has been forwarded to BVA and the 90-day period has elapsed, any additional evidence submitted may not be reviewed by BVA until it has been first reviewed by the AOJ, unless the appellant or representative specifically waives such review. The waiver must be in writing and must accompany the evidence being submitted. If no waiver is given, BVA will remand the appeal back to the AOJ for review of the additional evidence and preparation of a SSOC if the claim remains denied.

An appellant may request a personal hearing before BVA at any point in the appeal up to the time BVA issues its decision. The hearing may be held before the Board sitting in Washington, D.C.; before a traveling section of the Board at the Department of Veterans Affairs Regional Office; or by teleconference, with the claimant at a designated VA station and the Board member in Washington, DC. As described above, the DRO may also conduct a personal hearing for eligible claimants at the VA Regional Office.

A Notice of Disagreement and a Substantive Appeal may be filed by the claimant or representative, by the claimant's next friend, or, if the claimant is under a disability by a court, by a fiduciary. Even if the claimant is under such disability, VA will still honor and act upon a Notice of Disagreement filed by the claimant if it is otherwise valid.

A Notice of Disagreement may be withdrawn in writing at any time prior to filing the Substantive Appeal, and a Substantive Appeal may be withdrawn in writing at any time before BVA promulgates its decision. Either the claimant or the representative may make the withdrawal. Withdrawal of a Notice of Disagreement or appeal as to any issue(s) does not preclude submitting another Notice of Disagreement on the same issue(s), provided the original one-year time limit to appeal the decision has not expired.

Appellate Processing

An appellant has 120 days from the date of an unfavorable BVA final decision to file an appeal to the U.S. Court of Appeals for Veterans Claims (CAVC). ***This appeal must be sent directly to the court, NOT to BVA or to any VA office.*** The time limit for filing may not be extended or waived. There is a filing fee, which may be waived. Only the appellant or representative may appeal a BVA decision to the court; the agency may not appeal.

Even though a claimant is entitled to representation by the representative of his or her choice (including an attorney) throughout the entire claims and appeals process, no fee may be charged by the attorney or other representative until BVA has made a final decision denying an appeal. At that point, if the appellant wishes to continue pursuing the appeal to the CAVC he or she may enter into a contingency fee agreement with an attorney for up to 20% of any retroactive benefits initially payable in the event of a favorable decision by the court. This fee agreement is subject to review for correctness and compliance with the law both by BVA and by the CAVC.

The court may only consider the issues, evidence and arguments that BVA reviewed in its decision—no new evidence may be submitted and no new arguments or issues may be raised. The court will uphold BVA if there is any reasonable basis for its decision, unless the court finds an error of fact or law, or finds that BVA's decision was arbitrary and capricious. Either the appellant or VA may appeal the CAVC's decision to the U.S. Court of Appeals for the Federal Circuit, and if still unsuccessful, to the U.S. Supreme Court.

A claimant or representative may request reconsideration of a final BVA decision at any time upon allegation of error of fact or law; discovery of new and material evidence in the form of relevant service records; or allegation of fraud or misrepresentation of evidence which materially influenced the Board's decision. However, if an appeal is pending before the CAVC, BVA may not reconsider its decision unless the court gives it specific permission to do so.

Appellate Processing

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. To initiate an appeal of a VA decision, how long from the date of notice of the decision does a claimant have to file a Notice of Disagreement (N.O.D.)?
 - a. 60 days
 - b. Six months
 - c. One year
 - d. There is no time limit
2. Are there special requirements for a N.O.D.?
 - a. It must be in writing, and communicate a desire to appeal the decision.
 - b. It must contain detailed and specific allegations of errors of fact and/or law in the decision.
 - c. It must be submitted on a specific form.
 - d. All of the above
3. Where should a N.O.D. with a denial of fee basis authorization be sent?
 - a. To the Regional Office having the veteran's claims file.
 - b. To the VA Medical Center having jurisdiction of the veteran's area of residence.
 - c. To the Board of Veterans' Appeals.
 - d. Any of the above.
4. Any adjudicative decision as to eligibility for a VA benefit by any element of the Department of Veterans Affairs may be appealed. (T/F)
5. What constitutes an appeal?
 - a. A N.O.D., a Statement of the Case, and a substantive appeal.
 - b. A written N.O.D., a Statement of the Case, and a substantive appeal.
 - c. A timely filed N.O.D., a Statement of the Case, and a written substantive appeal.
 - d. A timely filed written N.O.D., a Statement of the Case, and a timely filed written substantive appeal.

Appellate Processing

6. A claimant is allowed one personal hearing before BVA during the course of an appeal.
(T/F)
7. After an initial decision has been made on a claim, submission of additional evidence extends the appeal period on the claim. (T/F)
8. An appeal which does not allege specific errors of fact or law may be dismissed by BVA.
(T/F)
9. An appeal from a BVA decision must be filed with the U.S. Court of Appeals for Veterans Claims (CAVC) within:
 - a. 60 days after the date of the BVA decision.
 - b. 120 days after the date of the BVA decision.
 - c. Six months after the date of the BVA decision.
 - d. One year after the date of the BVA decision.
10. Following receipt of a Statement of the Case, the claimant must return the substantive appeal (VA Form 9) within what time period to complete the appeal?
 - a. 30 days
 - b. 60 days
 - c. The remainder of the one-year appeal period
 - d. B. or C., whichever is the longer time.
11. When a BVA decision is appealed to the CAVC, the claimant will be given the opportunity to submit any additional evidence desired and to raise any new issues that may have arisen since the BVA made its decision. (T/F)
12. Where should an appeal to CAVC be sent?
 - a. To the Regional Office having the veteran's claims file.
 - b. To the Board of Veterans' Appeals.
 - c. To the Court of Appeals for Veterans Claims.
 - d. To the Federal Court for the veteran's state.
13. Since VA proceedings are non-adversarial in nature, a claimant may not be represented by an attorney unless and until an appeal is made to CAVC. (T/F)

TRAINING MODULE 18

STUDY PLAN

Discharge Reviews; Correction of Military Records

Objective:

To learn how to assist a claimant request a change or upgrade in the character of his or her discharge from service, as well as how to request other corrections of the military record when necessary.

References:

38 Code of Federal Regulations §§ 3.12, 3.360, 17.47, 21.7042.

VA Pamphlet 80-02-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn the procedures for requesting review or correction of a claimant's discharge or other military records.

Summary:

Except as provided by 38 CFR §§ 3.360 and 17.47(a)(2) for health care benefits, and 38 CFR § 21.7042(a)(4)(ii) for Chapter 30 (Montgomery GI Bill) education benefits, eligibility for VA benefits in general requires that the claimant or person on whose service the claim is based have been discharged from service under honorable conditions. With certain exceptions, an honorable discharge or a general discharge under honorable conditions is binding upon VA for all benefits purposes. If the discharge was less than honorable, VA will determine if the discharge was under other than dishonorable conditions so long as it was not issued for any of the reasons constituting a statutory bar to benefits, such as a discharge or dismissal by reason of sentence of a general court-martial, or a resignation of an officer for the good of the service, etc. If VA determines that the discharge was issued under other than dishonorable conditions, the claimant is eligible to proceed with his or her claim for benefits. Otherwise, the claim(s) must be denied.

Persons whose discharge from service was under other than honorable conditions may instead choose to apply for a review of the discharge by the Service Department. This may be either by a Discharge Review Board or by a Board for Correction of Military Records. Each is briefly described below.

Discharge Reviews; Correction of Military Records

1. Discharge Review Boards:

Each of the Armed Forces has established a Discharge Review Board under the provisions of 10 U.S.C., Section 1553, to review upon application the nature and type of discharge issued in a particular case. The Board is empowered to determine whether the discharge or dismissal in an individual case should be changed, corrected, or modified under reasonable standards of regulations and discipline for that branch of service. The Board does not have the authority to reinstate the applicant to service, nor can the Board change reenlistment codes to permit the applicant to return to service. In addition, if the other than honorable discharge was based on having been AWOL for more than 180 days, a recharacterized discharge by the Discharge Review Board is not necessarily binding upon VA; in such cases, VA must still determine whether there were compelling reasons for the person's absence from duty.

A request for review of a discharge is made by submitting DD Form 293, *Application for Review of Discharge or Dismissal from the Armed Forces of the United States*, to the appropriate discharge review board, at the address listed on the form. The applicant must specify what change or recharacterization is required, and why it is necessary. Supporting documentation, including statements from witnesses, may be submitted either with the application or at any time up to the time the Board meets to consider the application.

The application must be filed not later than 15 years after the discharge or dismissal from service. This time limit may not be waived. If more than 15 years have elapsed since discharge or dismissal, the applicant must file DD Form 149, *Application for Correction of Military Record Under Provisions of Title 10, U.S.C., Section 1552*, with the appropriate Board for Correction of Military Records, as described below.

Discharge Review Boards conduct hearings for applicants to personally plead their cases and provide additional evidence, if desired. All of the Boards hold hearings in Washington, D.C. In addition, the Army and the Air Force have traveling review boards, which conduct personal hearings in various cities in each state. The Navy and Marine Corps Boards conduct personal hearings outside Washington, D.C. only in Arlington, Virginia; Dallas, Texas; Chicago, Illinois; and San Francisco, California. Applicants are entitled to representation of their choice, including representation by a veterans service organization.

2. Boards for Correction of Military Records:

The Secretary of each of the military services is authorized under 10 U.S.C., Section 1552, to establish a board to correct any military record, for the purpose of correcting an error in the record or to correct an injustice. Correction of a military record may include review of a discharge that was directed by a court-martial. A recharacterization of a discharge by a Board for Correction of Military Records as "honorable" or "general under honorable conditions" is final and binding on VA for all veterans' benefits purposes. To apply for correction of a military record, DD Form 149, *Application for Correction of Military Record Under Provisions of Title 10, U.S.C., Section 1552*, must be filed with the Board at the address listed on the form. *All* supporting documentation, including statements from witnesses, briefs of arguments, or any other evidence, *must* accompany the application as a complete package. The Board will not accept any additional evidence filed subsequently, except under the most extraordinary circumstances.

Discharge Reviews; Correction of Military Records

The application may be filed by the veteran or former service member, his or her survivors, or a legal representative. The time limit for filing is three years after the discovery of the alleged error or injustice; however, this time limit may be waived or excused if the Board finds that it would be in the interests of justice to do so. It is the applicant's responsibility to explain why the application should be considered despite the delay, and to show why the alleged entry in, or omission from, the record was erroneous or unjust.

Boards for Correction of Military Records do not normally hold personal hearings for the applicants. The Board will review the evidence and documentation submitted and will determine if a hearing would be necessary or appropriate, and if so, notify the applicant accordingly. All hearings before Boards for Correction of Military Records are conducted in Washington, D.C.

Discharge Reviews; Correction of Military Records

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. Name the VA benefit that may not be authorized if the veteran's discharge from service was general, under honorable conditions.
 - a. Dependency and Indemnity Compensation (DIC)
 - b. Civilian Health and Medical Program, VA (CHAMPVA)
 - c. Veteran's Education Assistance under 38 U.S. Code, Chapter 30
 - d. Veteran's Group Life Insurance (VGLI)
2. Under certain circumstances, VA may still authorize monetary benefits even if a claimant's discharge from service was issued under other than honorable conditions.
(T/F)
3. Which VA benefit may be authorized even if the person's discharge from service was under other than honorable conditions, so long as it was not a bad conduct discharge or for one of the reasons constituting a statutory bar?
 - a. Vocational Rehabilitation
 - b. Health care for a service-related disability
 - c. Burial allowance, including plot/interment allowance
 - d. None
4. The absolute time limit for application to a Discharge Review Board for upgrading the character of a discharge is:
 - a. Five (5) years after discharge from service.
 - b. Ten (10) years after discharge from service.
 - c. Fifteen (15) years after discharge from service.
 - d. There is no time limit for application to review the character of discharge from service.
5. Even if the Discharge Review Board upgrades the character of a discharge to "General, under honorable conditions," this is not necessarily binding upon VA in all cases.
(T/F)

Discharge Reviews; Correction of Military Records

- 6.** Can a Discharge Review Board order that an applicant be allowed to re-enter service?
(Y/N)
- 7.** VA is required to review any upgraded discharge that was based on periods of absence without leave (AWOL) of 180 days or more, even if the recharacterization was by the Board for Correction of Military Records.
(T/F)
- 8.** Application for correction of a military record must ordinarily be made not later than three years after the claimed error in the record is discovered. Can this time limit be waived?
(Y/N)
- 9.** On application, a Board for Correction of Military Records will schedule a personal hearing for the applicant to personally plead his or her case.
(T/F)
- 10.** All evidence and documentation in support of an application for correction of a military record, including statements from witnesses and briefs of arguments, must be submitted accompanying the application, or the Board for Correction of Military Records will not accept it.
(T/F)

TRAINING MODULE 19

STUDY PLAN

VA Forms

Objective:

To become familiar with the various forms used by the Department of Veterans Affairs (VA), to learn how to assist claimants properly complete these forms, and to review the list of forms needed to provide services to claimants in all areas covered under Title 38, U.S. Code.

References:

VA Catalog 1, *Standardized Forms and Form Letters*.

VA Pamphlet 80-02-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Review the list of forms given below. These are the ones that a veterans service representative will most often encounter in the course of assisting veterans and their dependents or survivors, although the frequency of use will vary greatly. A well-stocked Veterans Service Office should have most, if not all, of these forms in stock, proportionate to the frequency with which they are needed. Note that most of the forms are prefixed according to the VA activity which uses them. Note also that the list also includes several Department of Defense (DD) forms and Standard Forms, as well as National Archive (NA) forms.

FORM

TITLE

General

9	<i>Appeal to the Board of Veterans' Appeals</i>
22A	<i>Appointment of Attorney or Agent as Claimant's Representative</i>
119	<i>Report of Contact</i>
3232	<i>General Information Request</i>
3288	<i>Request for and Consent to Release Information from Claimant's Records</i>
20-572	<i>Request for Change of Address/Cancellation of Direct Deposit</i>
20-5655	<i>Financial Status Report</i>

VA Forms

FORM	TITLE
Medical	
10-10	<i>Application for Medical Benefits</i>
10-10d	<i>Application for Medical Benefits for Dependents or Survivors—CHAMPVA</i>
10-10ez	<i>Application for Health Benefits</i>
10-10m	<i>Medical Certificate</i>
10-583	<i>Claim for Payment of Cost of Unauthorized Medical Services</i>
10-1394	<i>Application for Adaptive Equipment—Motor Vehicle</i>
10-5345	<i>Request for & Consent to Release Medical Records Protected by 38 U.S.C. 7332</i>
10-7959a	<i>CHAMPVA Claim Form</i>
Compensation and Pension	
21-22	<i>Appointment of Veterans Service Organization as Claimant's Representative</i>
21-121	<i>Application for Burial Allowance & Accrued Amounts, Payable as Reimbursement</i>
21-509	<i>Statement of Dependency of Parent(s)</i>
21-524	<i>Statement of Person Claiming to Have Stood in Relation of Parent</i>
21-526	<i>Veteran's Application for Compensation or Pension</i>
21-527	<i>Income – Net Worth and Employment Statement (In Support of Claim for Total Disability Benefits)</i>
21-530	<i>Application for Burial Benefits</i>
21-534	<i>Application for Dependency and Indemnity Compensation, Death Pension, or Accrued Benefits by a Surviving Spouse or Child</i>
21-535	<i>Application for Dependency and Indemnity Compensation by Parent(s)</i>
21-551	<i>Application for Accrued Benefits by Veteran's Spouse, Child, or Dependent Parent</i>
21-601	<i>Application for Reimbursement from Accrued Amounts Due a Deceased Beneficiary</i>
21-609	<i>Application for Amounts Due Estates of Persons Entitled to Benefits</i>
21-614	<i>Application for Accrued Benefits Payable to Widow, Widower, Child, or Dependent Parent(s)</i>
21-651	<i>Election of Compensation or Pension in Lieu of Retired Pay or Waiver of Retired Pay to Secure Compensation or Pension from Department of Veterans Affairs</i>

VA Forms

FORM	TITLE
(Compensation and Pension, cont'd)	
21-674	<i>Request for Approval of School Attendance</i>
21-647b	<i>School Attendance Report</i>
21-686c	<i>Declaration of Marital Status</i>
21-0304	<i>Application for Benefits for Certain Children With Disabilities Born of Vietnam Veterans</i>
21-0510	<i>Eligibility Verification Report Instructions</i>
21-0511S-1	<i>Old Law Eligibility Verification Report (Surviving Spouse)</i>
21-0511V-1	<i>Old Law Eligibility Verification Report (Veteran)</i>
21-0512S-1	<i>Section 306 Eligibility Verification Report (Surviving Spouse)</i>
21-0512V-1	<i>Section 306 Eligibility Verification Report (Veteran)</i>
21-0513-1	<i>Old Law and Section 306 Eligibility Verification Report (Children Only)</i>
21-0514-1	<i>DIC Parent's Eligibility Verification Report</i>
21-0516-1	<i>Improved Pension Eligibility Verification Report (Veteran with No Children)</i>
21-0517-1	<i>Improved Pension Eligibility Verification Report (Veteran with Children)</i>
21-0518-1	<i>Improved Pension Eligibility Verification Report (Surviving Spouse with No Children)</i>
21-0519C-1	<i>Improved Pension Eligibility Verification Report (Child or Children)</i>
21-0519S-1	<i>Improved Pension Eligibility Verification Report (Surviving Spouse with Children)</i>
21-0571	<i>Application for Exclusion of Children's Income</i>
21-1775	<i>Statement of Disappearance</i>
21-2008	<i>Application for United States Flag for Burial Purposes</i>
21-4103	<i>Information from Remarried Widow(er)</i>
21-4138	<i>Statement in Support of Claim</i>
21-4140-1	<i>Employment Questionnaire</i>
21-4142	<i>Authorization for Release of Information</i>
21-4170	<i>Statement of Marital Relationship</i>
21-4171	<i>Supporting Statement Regarding Marriage</i>
21-4176	<i>Report of Accidental Injury in Support of Claim for Compensation or Pension</i>
21-4183	<i>Application for Dependency and Indemnity Compensation by Child</i>

VA Forms

FORM

TITLE

(Compensation and Pension, cont'd)

21-4185	<i>Report of Income from Property or Business</i>
21-4192	<i>Request for Employment Information in Connection with Claim for Disability Benefits</i>
21-4502	<i>Application for Automobile or Other Conveyance and Adaptive Equipment</i>
21-8049	<i>Request for Details of Expenses</i>
21-8416	<i>Medical Expense Report</i>
21-8678	<i>Application for Annual Clothing Allowance</i>
21-8924.1	<i>Application for Benefits Under Provisions of Section 156, Public Law 97-377 (REPS)</i>
21-8938	<i>Student Beneficiary Report—REPS</i>
21-8940	<i>Veteran's Application for Increased Compensation Based on Unemployability</i>
21-8951-2	<i>Notice of Waiver of VA Compensation or Pension to Receive Military Pay and Allowances</i>

Education Assistance

22-1990	<i>Veteran's Application for Education Benefits</i>
22-1990a	<i>Service Person's Application for Education Benefits</i>
22-1990t	<i>Application and Enrollment Certification for Individualized Tutorial Assistance</i>
22-1995	<i>Request for Change of Program or Place of Training (Under Chapter 30, 32, 34, Title 38 U.S.C. or Chapter 1606, Title 10 U.S.C.)</i>
22-1999c	<i>Certificate of Affirmation of Enrollment Agreement—Correspondence Course</i>
22-5490	<i>Application for Survivor's and Dependent's Educational Assistance</i>
22-5490a	<i>Educational Plan (Under Provisions of Chapter 35, Title 38 U.S.C.)</i>
22-5495	<i>Request for Change of Program or Place of Training—Survivor's and Dependent's Educational Assistance</i>
22-8691	<i>Veteran's Application for Work-Study Allowance</i>
22-8873	<i>Supplemental Information for Change of Program or Reenrollment After Unsatisfactory Attendance, Progress or Conduct</i>
22-8889	<i>Application for Educational Assistance Test Program Benefits (Section 901)</i>

VA Forms

FORM

TITLE

Administrative

23-8800 *Request for Department of Veterans Affairs Forms and Publications*

Finance

24-0296 *Direct Deposit Enrollment*

24-5281 *Application for Refund of Education Contributions*
(VEAP, Chapter 32, Title 38, U.S.C.)

Loan Guaranty

26-1802a *Application for Home Loan Guaranty and Certificate of Commitment*

26-1817 *Request for Determination of Loan Guaranty Eligibility—*
Unmarried Surviving Spouses

26-1880 *Request for Determination of Eligibility and Available Loan Guaranty*
Entitlement

26-4555 *Veteran's Application in Acquiring Specially Adapted Housing or Special Home*
Adaptation Grant (Title 38 U.S.C. Section 2101(a) or 2101(b))

26-4555c *Veteran's Supplemental Application for Assistance in Acquiring Specially*
Adapted Housing

26-4555d *Veteran's Application for Assistance in Acquiring Special Housing Adaptations*

26-8261a *Request for Certificate of Veteran Status*

26-8641 *Application for Guaranty of Loan to Purchase Mobile Home and/or Lot*

26-8827 *Housing Discrimination Complaint*

Veterans Services

27-8944 *Instructions for Applying For Aid and Attendance or Housebound Benefits*

Vocational Rehabilitation and Employment

28-0588 *Notice of Special Benefits for the Service Disabled*

28-1900 *Disabled Veteran's Application for Vocation Rehabilitation (Chapter 31)*

28-1902 *Counseling Record—Personal Information (English and Spanish Editions)*

28-8832 *Veteran's Application for Counseling*

28-8890 *Information About Vocational Rehabilitation (Attachment to VA Form 28-1900)*

VA Forms

FORM	TITLE
VA Insurance	
29-178	<i>Request for Insurance Status—Government Life Insurance</i>
29-336	<i>Designation of Beneficiary and Optional Settlement</i>
29-352	<i>Application for Reinstatement (Insurance Lapsed More Than 6 Months)</i> <i>Government Life Insurance and/or Total Disability Income Provision</i>
29-352a	<i>Supplement to Insurance Medical Application</i>
29-353	<i>Application for Reinstatement (Nonmedical—Comparative Health Statement)</i> <i>Government Life Insurance and/or Total Disability Income Provision</i>
29-353a	<i>Application for Reinstatement (Nonmedical—Insurance Age 50 and Under)</i> <i>Government Life Insurance and/or Total Disability Income Provision</i>
29-357	<i>Claim for Disability Insurance Benefits—Government Life Insurance</i>
29-380	<i>Application for Protection of Commercial Life Insurance Policy</i>
29-538	<i>Assignment—Government Life Insurance Benefits</i>
29-541	<i>Certificate Showing Residence and Heirs of Deceased Veteran</i>
29-586	<i>Certification of Change or Correction of Name—Government Life Insurance</i>
29-888	<i>Insurance Deduction Authorization (For Deduction from Benefit Payments)</i>
29-0152	<i>Application for Conversion—Government Life Insurance</i>
29-0165	<i>VA MATIC Change(Changes to Bank/Checking Account)</i>
29-0532	<i>Application for VA MATIC Authorization (Premium Deduction from</i> <i>Checking Account)</i>
29-1546	<i>Application for Cash Surrender Value or Policy Loan</i>
29-1549	<i>Application for Change of Permanent Plan (Medical) (Change to a Policy with a</i> <i>Lower Reserve Value)</i>
29-1606	<i>Application for Total Disability Income Provision (Medical)</i>
29-4125	<i>Claim for One Sum Payment—Government Life Insurance All Prefixes</i>
29-4125a	<i>Claim for Monthly Payments—National Service Life Insurance (NSLI)</i>
29-4125k	<i>Claim for Monthly Payments—United States Government Life Insurance</i> <i>(USGLI)</i>
29-4364	<i>Application for Service-Disabled Veterans Life Insurance (RH)</i>

VA Forms

FORM

TITLE

Servicemembers' and Veterans' Group Life Insurance

SGLV-8283	<i>Claim for Death Benefits (SGLI or VGLI)</i>
SGLV-8284	<i>Servicemembers' and Veterans' Group Life Insurance Accelerated Benefits Option</i>
SGLV-8285	<i>Request for Insurance</i>
SGLV-8714	<i>Application for Veteran's Group Life Insurance</i>
SGLV-8714-3	<i>Application for Veteran's Group Life Insurance (Veterans Separated More Than 120 Days)</i>
SGLV-8721	<i>Beneficiary Designation—SGLI or VGLI</i>

National Cemetery

40-1330	<i>Application for Standard Government Headstone or Marker for Installation in a Private or State Veterans' Cemetery Application for Presidential Memorial Certificate (discontinued form)</i>
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Department of Defense (DD) Forms

DD-149	<i>Application for Correction of Military Record Under the Provisions of Title 10, U.S.C., Section 1552</i>
DD-293	<i>Application for Review of Discharge or Dismissal from the Armed Forces of the United States</i>
DD-1172	<i>Application for Uniformed Services Identification Card DEERS Enrollment</i>
DD-1884	<i>Survivor Benefit Plan—Application for Annuity</i>
DD-2168	<i>Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States</i>

National Archive (NA) Forms

NA-13055	<i>Request for Information Needed to Reconstruct Medical Data</i>
NA-13075	<i>Questionnaire About Military Service</i>

VA Forms

FORM

TITLE

Standard Forms

SF-15	<i>Application for 10-Point Veteran's Preference</i>
SF-95	<i>Claim for Damage, Injury, or Death</i>
SF-180	<i>Request Pertaining to Military Records</i>
SF-233	<i>Power of Attorney by Individual to a Bank for the Collection of Checks Drawn on the United States Treasury</i>

VA Forms

Study Questions:

Using the assigned references and reading materials, answer the following questions:

1. What VA activity is indicated by forms having the prefix “29”?

2. What is the form for a claim for increased compensation because of individual unemployability? _____
3. What is the form for enrolling for medical care at the VA hospital or clinic?

4. What is the prefix for forms used for compensation and/or pension claims?

5. Since they are similar programs, the forms used for Vocational Rehabilitation use the same prefix as the forms used for veteran’s education. (T/F)

TRAINING MODULE 20

STUDY PLAN

Special Benefits

Objective:

To learn about the additional special benefits available to disabled veterans, their families and their survivors.

References:

Title 38, U.S. Code, Chapters 11, 17, 18, 21, and 39.

38 Code of Federal Regulations Part 3, §§ 3.808–3.815; Part 17, §§ 17.149–17.159 and 17.900–17.905; Part 21, §§ 21.8010–21.8410.

Adjudication Manual M21-1, Part IV, Chapter 32; Part VI; Appendix B

VA Pamphlets: 26-69-1, *Questions and Answers on Specially Adapted Housing and Special*

Housing Adaptations for Veterans

80-03-1, *Federal Benefits for Veterans and Dependents*.

Instructions:

Study the assigned reference materials to learn the various prosthetic and assistive appliances and devices available as well as various monetary grants and special allowances, and how to assist a veteran or other eligible person to apply for them.

Summary:

1. General:

A wide range of special services and benefits are available for disabled veterans. These may include prosthetic devices, medical accessories and similar appliances, or monetary grants for alteration and/or adaptation of a home or automobile to accommodate the particular disability. The qualifying disability does not necessarily need to be service-connected, although eligibility requirements may be different for service-connected disabilities than for nonservice-connected ones.

Appliances and devices available include, but are not limited to, artificial limbs, braces, canes, crutches, wheelchairs, orthopedic shoes, eyeglasses, and hearing aids. These may all be furnished as a necessary part of any medical care, whether inpatient or outpatient, which the veteran is eligible to receive and is receiving. Once issued, such appliances or devices may be repaired or

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replaced by VA as necessary. In addition, if such appliances require the wearing of special clothing, the clothing may be purchased, made, or repaired by VA or at VA expense. All such items are provided by the Prosthetics and Sensory Aids Service at the VA Medical Center having jurisdiction for the veteran's area of residence, upon application and determination of feasibility and need. This will usually be based upon a written order or request from the veteran's treating physician. VA will also provide any necessary training in the use of the appliances and devices.

VA will provide invalid lifts for certain veterans who have been determined to be in need of regular aid and attendance, whether service-connected or for special monthly pension. The qualifying disability on which such need is based is anatomical loss or loss of use of both lower extremities plus the loss or loss of use of at least one upper extremity, together with a medical determination that as a result, the veteran is incapable of transferring from the bed to a wheelchair or back without the aid of an attendant, and a lift is a feasible means for accomplishing such transfers. In addition, the veteran may be furnished other therapeutic and rehabilitative devices, including medical equipment and supplies (but not medications) which are determined to be medically necessary.

Veterans who are service-connected for hearing loss, and who are rated 80% or more for such hearing loss, may be furnished assistive devices including telecaptioning decoders to help overcome their hearing handicap.

Blind veterans who are entitled to compensation for any service-connected disability (the blindness need not be service-connected) may be furnished a trained guide dog and/or mechanical or electronic blind aid equipment as appropriate. VA will furnish the training, and will also provide for the period of adjustment to the guide dog, including the expenses of travel, food and lodging if the veteran is required to be away from his or her usual place of residence during this period of adjustment.

2. Clothing allowance:

In addition to the goods and services listed above, VA also provides certain monetary benefits to qualified disabled veterans: If a veteran has a service-connected condition which requires the wearing or use of an orthopedic or prosthetic appliance (including a wheelchair) that tends to tear or wear out clothing, or has a service-connected skin condition and uses medication for it that tends to stain or otherwise damage the clothing, an annual clothing allowance is payable upon application to the Prosthetics and Sensory Aids Service at the VA Medical Center of jurisdiction. If the veteran is service-connected for anatomical loss or loss of use of one or more extremities, the allowance is automatically authorized after the initial application. In all other cases, the Prosthetics and Sensory Aids Service must determine if the veteran has a qualifying disability, and if so, whether the need for the orthopedic or prosthetic device or the medication for the skin condition is permanent. If the Prosthetics and Sensory Aids Service determines that the need is permanent, the allowance is automatically paid thereafter; if the need is not shown to be permanent, the veteran must reapply for the clothing allowance each year.

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3. Automobile and Special Adaptive Equipment:

If a veteran is entitled to compensation (or would be entitled to compensation but for receipt of military retired pay) because of the anatomical loss or loss of use of one or both hands, or one or both feet, or because of defective vision in both eyes, with best vision in the better eye no better than 20/200, VA will pay up to \$11,000 towards the purchase of an automobile or other conveyance plus any necessary special adaptive equipment which will allow the veteran to safely and effectively operate the automobile or other conveyance. ***This is a one-time payment only.*** The Prosthetics and Sensory Aids Service at the VA Medical Center may also authorize special adaptive equipment for veterans who are service-connected for complete ankylosis of one or both hips or one or both knees, as well as authorizing adaptive equipment for subsequent vehicles for any veteran who has any of the above disabilities. The special adaptive equipment may be repaired, reinstalled, or replaced as necessary; however, a veteran may not be authorized adaptive equipment for more than two vehicles at a time or during any four-year period, except for unusual circumstances beyond the veteran's control.

4. Special Housing Assistance:

A veteran may qualify for a Special Adapted Housing grant not to exceed \$50,000 if he or she is entitled to compensation (including compensation under 38 USC 1151) and rated permanently totally disabled based on any of the following disabilities or combinations of disabilities:

- Anatomical loss or loss of use of both lower extremities, such as to preclude locomotion without the aid of braces, canes, crutches, or a wheelchair;
- Blindness of both eyes, having only light perception, plus anatomical loss or loss of use of one lower extremity;
- Anatomical loss or loss of use of one lower extremity plus residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, canes, crutches, or a wheelchair; or
- Anatomical loss or loss of use of one lower extremity together with anatomical loss or loss of use of one upper extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, canes, crutches, or a wheelchair.

This grant may be used to buy, build, or alter and adapt a home for the purpose of making it wheelchair-accessible under applicable guidelines. ***This is a one-time grant, except as noted below.*** If the veteran has Loan Guaranty entitlement available and meets credit-worthiness and other criteria, VA may also authorize an additional direct loan of up to \$33,000 to help defray the costs of buying, building, or modifying the home.

If the veteran does not qualify for the Special Adapted Housing grant, a Special Home Adaptation grant not to exceed \$10,000 is available for veterans who are entitled to compensation for permanent total disability based either on blindness in both eyes, with vision of 5/200 or less, or anatomical loss or loss of use of both hands. ***This is also a one-time grant.*** If the veteran has been previously found eligible for the Special Adapted Housing grant, the Special Home Adaptation grant may not be authorized; however, a veteran who is eligible for the Special Home Adaptation grant may later be authorized a Special Adapted Housing grant, if additional qualifying disa-

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bility arises. If the veteran qualifies for both grants, only the Special Adapted Housing grant may be authorized. In any event, no particular type of adaptation, improvement, or structural alteration may be provided the veteran more than once.

If the veteran does not qualify under either of the above programs but nonetheless needs assistance with alteration of his or her home to make it wheelchair-accessible or for other special needs, he or she may qualify for a grant under the Home Improvement and Structural Alteration (HISA) program administered by the Prosthetics and Sensory Aids Service at the VA Medical Center. This program does not require that the qualifying disability be service-connected, but there is a difference in the amount of the grant for a service-connected disability (\$4,100) or a nonservice-connected disability (\$1,200).

5. Health Care Coverage for Dependents:

In addition to the special benefits for veterans, VA will also provide health care insurance coverage for the dependents or survivors of certain totally disabled (whether rated 100% or by reason of individual unemployability) veterans under the Civilian Health and Medical Program, VA (CHAMPVA). For eligibility under this program, the veteran-sponsor must:

- Be rated permanently totally disabled from service-connected disability; or
- Have died on active duty, in line of duty; or
- Have died from a service-connected disability; or
- Have been rated service-connected and permanently totally disabled at the time of death from any cause not willful misconduct.

Eligible persons include the veteran's spouse or surviving spouse, minor children under age 18, children between the ages of 18 and 23 who are attending an approved school, and children over age 18 who have been determined to be permanently incapable of self-support ("helpless"). Dependents of retired or other military personnel who are eligible for health care coverage under CHAMPUS/TRICARE are not eligible for coverage under CHAMPVA.

Beginning February 4, 2003, Public Law 107-330 provided that an eligible surviving spouse who is over age 55 and who remarries will not lose eligibility for health care coverage under CHAMPVA. Additionally, a former surviving spouse who had remarried before December 6, 2002, and who was over age 55 at the time of the remarriage, may restore eligibility for health care coverage under CHAMPVA by reapplying for such coverage before February 4, 2004. Public Law 108-183 extends similar provisions for all other survivors' benefits, such as DIC, but the qualifying age at time of remarriage is 57. CHAMPVA eligibility continues if the surviving spouse was over age 55 at the time of remarriage.

Persons over age 65 who are eligible for hospital insurance under Medicare Part A will continue to also be eligible for health care coverage under CHAMPVA. Persons under age 65 who are entitled to both Medicare Part A and Part B may still be eligible for CHAMPVA as a secondary payer (Medicare supplement).

CHAMPVA will cover most health care services and supplies that are considered medically or psychologically necessary. In general, a person covered under CHAMPVA may seek treatment

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from any licensed health care provider or at any licensed medical facility, including many VA medical facilities. CHAMPVA administration, including applications and claims processing, is centralized to the VA Health Administration Center, Denver, Colorado.

6. Spina Bifida Allowance:

VA will pay a special monthly allowance to or for a natural child of a Vietnam veteran, conceived after the date the veteran first served in Vietnam or the waters offshore, if the child is suffering from spina bifida. The allowance is also payable to or for a natural child of a veteran who was stationed in or near the Korean demilitarized zone during the period September 1, 1967 to August 31, 1971, who was conceived after the date the veteran first served in or near the Korean demilitarized zone, and who suffers from spina bifida. For purposes of this benefit, the term “spina bifida” means all forms and manifestations of spina bifida except spina bifida occulta.

The current age or marital status of the child is not relevant to this allowance, and receipt of the allowance has no bearing on any other VA benefit payable to or for the child based on the child’s relationship to the veteran. In addition, payment of the spina bifida allowance may not be counted as income or assets for the purpose of establishing or denying eligibility for any other Federal or federally-assisted program.

If both of the natural parents are Vietnam veterans, only one allowance is payable to or for the affected child. However, multiple allowances may be paid if a qualifying veteran has more than one natural child, each of whom was conceived after the veteran served in Vietnam or the waters offshore, or in or near the Korean demilitarized zone during the covered period, and each of whom suffers from spina bifida.

Application for the allowance is made by submitting a completed VA Form 21-0304, *Application for Benefits for Certain Children with Disabilities Born of Vietnam Veterans*, together with appropriate supporting medical evidence to show that the child has spina bifida and the severity of the condition. The VA Regional Office, Denver, Colorado, has exclusive jurisdiction over all claims for spina bifida allowance. Payment will be based on three levels of disability, from Level I (able to ambulate unassisted, with minimal to mild impairment of functioning or intellect) to Level III (grossly impaired, nonambulatory, severely mentally retarded, and/or completely incontinent of bladder and bowel). The rates of payment for each level of impairment are set out in Adjudication Manual M21-1, Appendix B.

If the supporting medical evidence is not adequate to show the child’s level of disability, a rating of Level I will be assigned and a VA examination scheduled for a definitive assessment. Infants under one year of age at time of application will be rated as Level I unless the medical evidence shows neurological deficits of such severity as to warrant an immediate rating at Level III. In either event, the level of disability will be reassessed when the child is one year of age. Children between the ages of 5 and 21 will be periodically reassessed, at intervals not greater than five years, until they reach age 21. After age 21, VA will not further reassess the level of disability unless there is evidence of material change in the severity of the child’s condition, or evidence that the current rating may be incorrect.

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Besides payment of the special monthly allowance to or for an eligible child suffering from spina bifida, VA will also provide the child with a program of appropriate vocational rehabilitation and training. This is similar to the training programs provided for eligible veterans under 38 USC, Chapter 31, except that subsistence allowance, independent living services and certain other related services may not be provided for the child.

In addition, VA will provide all necessary treatment for the spina bifida and any conditions directly arising from it or because of it. Treatment will be furnished by VA, either directly or under contract with an approved health care provider. Other arrangements for the child's spina bifida-related care may also be honored, provided they are authorized in advance. In these cases, the authorization is issued by the VA Health Administration Center in Denver, Colorado. Claims for payment are handled on the same basis as claims under the CHAMPVA program.

7. Monetary Allowance for Children of Women Vietnam Veterans Born with Certain Birth Defects

In addition to the allowance described above for spina bifida in a child of any Vietnam veteran, male or female, beginning December 1, 2000 Public Law 106-419, the Veterans Benefits and Health Care Improvement Act of 2000, authorized payment of a monetary allowance for each biological child of a woman Vietnam veteran, conceived after the date the veteran first served in the Republic of Vietnam during the Vietnam era, who suffers from any of certain identified birth defects. All birth defects are included unless they are specifically excluded. The classes of excluded (not covered) birth defects are:

- Familial disorders including hereditary genetic conditions, such as cystic fibrosis or sickle cell disease;
- Congenital malignant neoplasms, such as neuroblastoma;
- Chromosomal disorders, such as Down's syndrome;
- Conditions due to birth-related injuries, such as cerebral palsy
- Conditions due to fetal or neonatal infirmity with well-established causes, such as hyaline membrane disease or maternal-infant blood incompatibility;
- Conditions that are developmental disorders, such as autism or learning disorders; or
- Conditions that do not result in permanent mental or physical disability, including conditions that are rendered non-disabling through surgical or other treatment.

As with the spina bifida allowance, the current age or marital status of the covered child is not relevant, and receipt of this allowance has no bearing on any other VA benefit payable to or for the child based on the child's relationship to the veteran. In addition, payment of this allowance may not be counted as income or assets for the purpose of establishing or denying eligibility for any other Federal or federally-assisted program.

VA Form 21-0304 has been revised and re-titled *Application for Benefits for Certain Children with Disabilities Born of Vietnam Veterans*, and is used to apply both for the spina bifida allowance and for the allowance under this program. VARO Denver, Colorado, has exclusive jurisdiction over both programs. The evidentiary requirements for this allowance are essentially the

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same as for the spina bifida allowance. Five levels of disability have been established, from Level 0 (no current disability) to Level IV (physical or mental defects that prevent age-appropriate self-care; or, behavior, communication, intellectual functioning, or social interaction are grossly inappropriate for age; or, disfigurement or scarring of the head, face, or neck with either gross distortion or gross asymmetry of features). The monetary rates payable for each level are listed in Adjudication Manual M21-1, Appendix B.

If an eligible child's only covered birth defect is spina bifida, the child may only be paid the spina bifida allowance. If the child has any other covered birth defect in addition to spina bifida, then only the allowance under this program may be authorized; however, the allowance paid may not be less than the amount of the allowance that would have been payable if the child's only covered birth defect was spina bifida.

As with the spina bifida allowance, VA will provide an eligible child with appropriate vocational rehabilitation and training, with similar limitations. In addition, VA will provide any and all necessary treatment for the covered birth defect(s) and resulting conditions, either at a VA medical facility or by contract with an approved local health care provider. Health care claim and authorization requirements are similar to those for the spina bifida allowance.

8. Restored Entitlement Program for Survivors (REPS):

The REPS program is one of the least-known VA programs for survivors of deceased veterans. Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, eliminated Social Security benefits for certain surviving spouses with children "in care" when the youngest child reached age 16. Most student benefits for children over age 18 were also eliminated. Section 156 of Public Law 97-377 restored benefits for the veteran's surviving spouse until the youngest child reached age 18, and for unmarried post-secondary school students between ages 18 and 22. REPS is a unique hybrid program—it is funded by the Department of Defense, but is administered by VA using a mixture of VA and Social Security Administration (SSA) eligibility criteria.

Qualifying eligibility for REPS requires that:

- The veteran died in service before August 13, 1981.
- If the veteran died in service after August 12, 1981, the condition which caused or contributed to death must have had its onset before August 13, 1981. (This includes persons listed as missing in action prior to August 13, 1981, for whom a casualty report shows a date of (presumed) death after August 12, 1981.)
- If the veteran died after service, the service-connected condition which caused or contributed to death must have had its onset before August 12, 1981, and must have been incurred or aggravated in line of duty. The character of discharge from service is *not* a factor for purposes of REPS eligibility. Any disease which may be presumptively connected to service prior to August 13, 1981 (to specifically include presumptively herbicide-related diseases for veterans who served in Vietnam or near the Korean DMZ between 1968 and 1971) will establish eligibility. DIC under either 38 USC 1318 or 38 USC 1151 does not establish eligibility.

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Survivors of deceased members of the Philippine Commonwealth Army (including guerilla forces), the Philippine Scouts, the commissioned corps of the Public Health Service, and the National Oceanic and Atmospheric Administration are specifically excluded from this program.

The rules and criteria for establishing relationship to the veteran are specified by SSA. Those rules are similar, but not identical, to the corresponding VA rules. The surviving spouse is eligible for REPS benefits if the youngest child of the veteran in the spouse's care is at least 16 years old but younger than 18. Under certain circumstances, the veteran's grandchild may be recognized as a "child" for REPS purposes. A surviving spouse who remarries may re-establish eligibility if the remarriage is subsequently terminated. A child who is over age 18 but under age 22 must be attending post-secondary school full-time. A schoolchild who marries after REPS eligibility has been established loses eligibility. The child may re-establish REPS eligibility if the marriage is voided or annulled, but not if the marriage is terminated by death or divorce.

Application for REPS benefits is made by submitting a completed VA Form 21-8924.1, *Application for Benefits Under Provisions of Section 156, Public Law 97-377 (REPS)*, plus appropriate proof of the veteran's service, acceptable proof of death, and proof of relationship (if not previously submitted) to the VA Regional Office, St. Louis, Missouri, which has exclusive jurisdiction of REPS claims. There is no time limit for applying—if eligibility is established, benefits will be paid from the earliest date eligibility is shown (but not earlier than January 1, 1983). If VARO St. Louis needs additional evidence or a rating or other determination to establish basic eligibility, it will be requested from the VA Regional Office having jurisdiction of the claims file.

Although both benefits require a service-connected death, eligibility for REPS benefits is independent of receipt (or denial) of DIC. Further, there is no requirement that the claimant must have previously applied for Social Security, and failure to file an application for Social Security benefits does not preclude awarding REPS benefits. A schoolchild may be paid benefits for periods of non-attendance of four months or less (such as vacation periods), providing that the child was attending school full-time immediately before the break and resumes full-time attendance immediately after the break. Periodic certification of continued attendance is required.

Rates payable under the REPS program are based on the deceased veteran's Social Security earnings record and the number of eligible beneficiaries (or potential beneficiaries). In addition, there are limitations on wages and earned income for all beneficiaries, and periodic reporting of income is required. If the earned income limits are exceeded, the REPS rates otherwise payable will be reduced by \$1 for each \$2 the income is over the annual limits.

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Study Questions:

Using the assigned references and reading materials, answer the following questions:

- 1.** To qualify for issuance of a prosthetic appliance from VA, the veteran must be service-connected for the disability for which the appliance is required.
(T/F)
- 2.** The Department of Veterans Affairs will issue an invalid lift for a veteran's use provided:
 - a.** The veteran has anatomical loss or loss of use of both lower extremities and at least one upper extremity.
 - b.** The veteran is entitled to additional rates of special monthly compensation or special monthly pension because of being in need of regular aid and attendance.
 - c.** The veteran is unable to transfer from bed to a wheelchair and back again without the aid of an attendant.
 - d.** All of the above.
- 3.** The Department of Veterans Affairs will issue hearing aids as needed to a veteran who is service-connected for hearing loss, regardless of the rated percentage of disability. To qualify for other assistive devices to help overcome deafness, the service-connected hearing loss must be rated:
 - a.** 40% or more.
 - b.** 60% or more.
 - c.** 80% or more.
 - d.** 100%
- 4.** To qualify for payment of the annual clothing allowance, the Prosthetics and Sensory Aids Service at the VA Medical Center must in all cases recertify each year that the veteran is required to use or wear a prosthetic or orthopedic appliance or device that wears out the veteran's clothing.
(T/F)

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5. VA will provide monetary assistance for a veteran to purchase a specially adapted automobile or other conveyance only one time.
(T/F)
6. How many autos or other conveyances will VA provide special adaptive equipment for an eligible veteran?
- a. Two
 - b. Four
 - c. There is no limit to the number of vehicles VA will equip.
 - d. There is no limit to the number of vehicles VA will equip, but VA will not authorize adaptive equipment for more than two vehicles at any one time.
7. If a veteran qualifies for both the Special Adapted Housing grant and the Special Home Adaptation grant, only the Special Adapted Housing grant will be authorized.
(T/F)
8. To be eligible for a grant under the Home Improvement and Structural Alteration (HISA) program, the disability which causes the need for alteration of the veteran's home must be service-connected.
(T/F)
9. If the veteran retired from service based on longevity (length of service) and later establishes a service-connected disability ratable at 100%, is the veteran's spouse eligible for health care insurance coverage under both TRICARE and CHAMPVA?
(Y/N)
10. Beneficiaries who have health care coverage under CHAMPVA may be furnished treatment at a VA medical facility, provided that space and the type of care required are both available at that facility.
(T/F)

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- 11.** The special allowance for spina bifida in a child of a Vietnam veteran may only be paid so long as that child meets the VA definition of a “child.”
(T/F)
- 12.** When it is established that a Vietnam veteran has a child between the ages of one and twenty-one who suffers from spina bifida, the severity of the child’s disability will be reviewed:
- a.** Only once, at the time that eligibility to the award is initially established. The disability is considered to be static thereafter.
 - b.** As often as may be considered necessary, based on the facts of the particular case.
 - c.** At intervals of not more than five years, up to age 21. After that the disability will be reviewed only if there is evidence of material change in the severity of the disability.
 - d.** None of the above.
- 13.** The Department of Veterans Affairs is responsible for providing, or providing for, all necessary health care as required for spina bifida and associated disabilities in a child of a Vietnam veteran.
(T/F)
- 14.** If a female Vietnam veteran has a child with spina bifida, the child may be paid either the spina bifida allowance or the allowance for birth defects, whichever is more.
(T/F)
- 15.** Which of the following birth defects are not covered under the allowance for birth defects in children of female Vietnam veterans?
- a.** Cystic fibrosis
 - b.** Cerebral palsy
 - c.** Autism
 - d.** All of the above

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- 16.** A covered disabled child of a Vietnam veteran may receive appropriate Vocational Rehabilitation programs and services from VA similar to a disabled veteran, except that a subsistence allowance may not be paid to the child.
(T/F)
- 17.** The veteran served in Vietnam during the Vietnam Era, and died in 1991 from prostate cancer. Are the requirements for REPS eligibility satisfied?
(Y/N)
- 18.** REPS benefits for a schoolchild are only payable while the school the child is attending is actually in session.
(T/F)
- 19.** The definition of a “child” for REPS benefits purposes is the same as for any other VA program.
(T/F)
- 20.** There is no time limit for filing a claim for REPS benefits, and if eligibility is established, benefits may be paid retroactively.
(Y/N)